S. Hrg. 101-1099, Pt. 1

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

H.R. 5158

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND FOR SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1991, AND FOR OTHER PURPOSES

PART 1 (Pages 1–795)

American Battle Monuments Commission
Army Cemeterial Expenses
Consumer Information Center
Consumer Product Safety Commission
Department of Veterans Affairs
Environmental Protection Agency
Federal Deposit Insurance Corporation
Federal Emergency Management Agency
National Credit Union Administration
National Institute of Building Sciences
Neighborhood Reinvestment Corporation
Office of Consumer Affairs
Resolution Trust Corporation
Selective Service System
U.S. Court of Veterans Affairs

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PRINTING OFFICE
26-231
WASHINGTON : 1990

S181-13

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MARCH 8, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room S–126, the Capitol, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Garn, Lautenberg, and Kerrey.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF WILLIAM K. REILLY, ADMINISTRATOR

ACCOMPANIED BY:

F. HENRY HABICHT, DEPUTY ADMINISTRATOR
EDWARD J. HANLEY, DEPUTY ASSISTANT ADMINSTRATOR FOR ADMINISTRATION AND RESOURCE MANAGEMENT
JAMES M. STROCK, ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND COMPLIANCE MONITORING
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LINDA J. FISHER, ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES
ERICH BRETTHAUER, ASSISTANT ADMINSTRATOR FOR RESEARCH AND DEVELOPMENT
DAVID P. RYAN, COMPTROLLER

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. Good morning, everybody.

The Subcommittee on VA, HUD, and Independent Agencies will now come to order. This subcommittee was originally created to have the appropriations jurisdiction for all the independent agencies.

We've got two that have grown up to be Cabinets—Veterans, HUD, and now there might be a new merit badge. Of course we support the initiative to make you a Cabinet agency, Mr. Reilly.

BUDGET REQUEST

We're going to consider your fiscal 1991 budget request for the Environmental Protection Agency. EPA's mission is to protect our Nation and our planet's environment. And it has grown enormously since it was established as an independent agency 20 years ago. The Agency's responsibilities have expanded from primarily regulatory activities to include policy and research, not only here in this country but internationally as well.

The President has repeatedly pledged his commitment to preserving our natural resources. He has illustrated this by endorsing the effort to elevate EPA to Cabinet status. I am highly supportive of that move and look forward to seeing it happen.

Despite these gestures, the budget submitted for 1991 for EPA, however, does not meet the expectations raised. The EPA budget request of $5.6 billion is actually less than a 2-percent increase over fiscal year 1990. I'm concerned that it's not even enough to keep pace with inflation.

The administration proposes to cut funding for sewage treatment construction grants by 20 percent. This comes at an important time for the construction grant program, an important tool of local government.

Fiscal year 1991 marks the transition of the program from primarily direct grants to one that assists states in capitalizing their revolving loan funds. It's vital that that transition be smooth and that there really be the appropriate amount of bridge money.

While cutting construction grants, Superfund would be increased by 14 percent, bringing its budget to $1.7 billion. We have a question about the increase as Superfund's authority nears expiration and wonder what your thoughts will be on that.

Mr. Reilly, I want to commend you for the initiatives you have taken in getting that highly criticized program back on track with your 90-day management review. Superfund's sites have been, of course, a national crisis. We've been concerned that the management of Superfund itself was a Superfund. So we're pleased that you conducted your 90-day management review.

The Agency's operating budget would be a total of $2.7 billion, a healthy increase of 12 percent over current funding levels. Some of the things we're concerned about is the absence of funds for the Asbestos Loan Program, which is very important; cuts in the Chesapeake Bay Program; and cuts in nonpoint source grants. I know you now chair the Chesapeake Council. We know that there's been a reduction in Chesapeake Bay funding for research, particularly in bay toxics, and we'll be talking about that later on.

INTERNATIONAL ISSUES

Of course, you've been an international leader on the subject of global warming and other international environmental issues. We note that there's been some cuts in policy research and don't quite understand why there would be cuts in global warming policy research, just when there's such an intense international impetus in which you've played a major role in solving. So we want to make sure money is matching the policy and that the policy's integrated with other governmental agencies dealing with global warming.

I know that you're under the jurisdiction of 75 congressional subcommittees; we've talked about this. But this subcommittee is your only one-stop shop. So we're delighted to hear you today. We would hope that you wouldn't take all of your testimony from all the other 75 subcommittees and bring it to us. But, as your one-stop shop, we know that if we don't fund EPA appropriately, in terms of adequate personnel and adequate resources, the best policy in the world does not have a positive environmental impact.

So we welcome you, and I want to see if my other members of the subcommittee have opening statements. I know that my ranking minority, and very able colleague, Mr. Garn's here.

Senator, did you have any comments you wish to make?

OPENING REMARKS OF SENATOR GARN

Senator **Garn**. Thank you, Madam Chair.

Just very briefly, Mr. Reilly, I'm happy to welcome you. I apologize for having to rush in and leave. Schedules are normally difficult for Senators around here. I think, in 15 years, I have never, ever at 9:30 had two hearings scheduled, one in Banking, where I'm the ranking Republican, one here, and two markups, one in Energy and one in Rules, all at 9:30. So, somehow, I'm going to try to get to pieces of all four of them.

So I do apologize for leaving. I do have some questions that are important to me but I will submit them to you in writing. If you would respond for the record, I would appreciate that.

Sorry I do have to run. I, particularly in Energy Committee, have a land exchange affecting my State and nobody's going to pass that amendment for me and that mark-up if I'm not there. So I apologize for having to leave and thank you for the courtesy.

Senator **Mikulski**. Thank you, Senator. Any questions you might want to submit for the record and so on, you'll be protected.

Senator Lautenberg?

OPENING REMARKS OF SENATOR LAUTENBERG

Senator **Lautenberg**. Thank you, Madam Chair, if the phraseology is appropriate. But, since we've gathered together in this room with very serious eye contact—[laughter].

Senator **Mikulski**. We're serious about this.

Senator **Lautenberg** [continuing]. Intimate hearing environment, I'm pleased to have an opportunity to meet again with Bill Reilly, for whom I have great admiration and great pity. [Laughter.]

The job to be done is a mammoth undertaking. You can't do it without appropriate resource. I would hope that the Administrator—and, again, I underline not only with respect but with friendship—is someone that I have gotten to know and someone who I think is professionally extremely capable and who works very hard to get this job done under very difficult circumstances.

CLEAN AIR ACT

Having said that, I wish that we could agree about the budget questions than we do Clean Air Act. We have a problem there, as you know, Mr. Administrator, and we have a problem here. We have a clean air bill on the floor and, yes, what's been offered is better than current law but it doesn't meet the requirements, as you know, I think it should.

I point the finger at the administration on that. The EPA budget is admittedly better than the budgets of the Reagan era, but it still falls far short of the levels necessary to protect the environment. The budget has some serious problems.

COMPLIANCE

First, we are told that Superfund levels will not result in compliance with the law's mandated cleanup schedule.

CONSTRUCTION GRANTS

The construction grants, as you know, is substantially below last year, 20 percent of last year's level, and way below the authorized levels.

RIGHT TO KNOW

Third, the right-to-know inventory. Many of your colleagues here who were here before you came to EPA know very well that the right-to-know law, the right-to-know section of the Superfund produced results that were hardly able to be anticipated when we developed that law.

We had a tough time. A lot of people, in EPA and within the Congress at the time, didn't believe that this was a law that had the kind of value I think that's been established by the release of the first data, almost 3 billion pounds of toxic material is being released into the air.

Well, to underfund it by decreasing the funding from last year by 14 percent is a big step down. I say this perhaps immodestly, but I think that information will probably have a greater effect on environmental law than many things that have happened in the past. Because it provides the information upon which we build knowledge and, thusly, law and process.

ASBESTOS FUND GRANTS

Fourth, as the Chairman mentioned, asbestos grants—cut from $43 million to zero. Nonpoint water pollution funds cut by 62 percent.

So these are some of the problems that I have with the budget. I wish that we could approach this task with the full professional commitment, Bill Reilly, that I know you have. For some reason or other, OMB and the administration differs with the American people on what ought to be done on cleaning up the environment and it's manifest in this request.

Madam Chair, I look forward to working with you to correct these serious shortcomings, to assure us that we're going to get the necessary funds to get that job done.

Senator **Mikulski**. Thank you, Senator.

Senator, I know that you're one of the leading people on the floor on this discussion and debate on the Clean Air Act. Do you have any time constraints that we need to acknowledge?

Senator **Lautenberg**. Well, I do. I have a couple of questions. I'll be able to wait my turn, though.

Senator **Mikulski**. OK. I want to be able to protect your time with the committee and also ensure your ability to participate on the debate on the floor.

Senator Kerrey from Nebraska?

OPENING REMARKS OF SENATOR KERREY

Senator **Kerrey**. Madam Chair, first of all, I want to thank both you and soon-to-be Secretary Reilly for your help last year on what appeared, I'm sure, to be a relatively small, but was for us a fairly large, problem. I am referring to the Crawford water filtration matter. You were a big help to us and I appreciate that.

I also appreciate having the extra hearing on Two Forks in the State. That was also extremely helpful.

I share some concerns that both Senator Lautenberg and Chairman Mikulski expressed about wastewater construction funding. I would add to that some concern for the reduction that's proposed in the Nonpoint Pollution uprogram.

I think we're making awfully good progress in the States on nonpoint. It's very difficult to get the States to cooperate, as you know, and to get locals to cooperate. It seems to me that, while you're on a roll—at least you appear to be on a roll in Nebraska—it would undercut an awful lot of political work that's been done to get people to cooperate if you make that reduction. I hope that you will take another look at that.

NUCLEAR REGULATORY COMMISSION AUTHORITY

I would like, in my opening remarks, to connect the debate that occurred yesterday on the floor. I notice that EPA was in support of an attempt to change the law that would give the Nuclear Regulatory Commission considerably more authority than they previously had. I would just point out that I believe that would have been a terrible mistake. I know it's framed as stopping overlap and all that sort of thing. But it undercuts, I think, a very important effort to try to get the feds and the States to cooperate in environmental problems.

As you know, Nebraska is the only State that's not taken over the responsibility for FCCRA. I've struggled with the Governor, with a good friend who's the chairman of the pertinent committee there. I believe it's a mistake. But in most other areas, we're working very actively and very successfully with the feds, particularly with the EPA, to try to manage environmental problems.

What that attempt yesterday did was shatter the trust. It truly did. All the intellectual arguments about, "We've got to stop overlap," and all that sort of stuff, don't change things. As Governor, I signed a low-level nuclear waste compact—and took Nebraska into that compact, under the assumption that the State's Department of Environmental Control was going to have full responsibility for regulating if we were selected for the site. We were selected as the site. What was attempted yesterday—and EPA was on the list that was supporting that change—was take the States' rights away.

I think it would have been a mistake. With all due respect, I know how these things work. I just urge you to take back to the administration the message that I think that would have been Pyhrric victory, had they won yesterday. They lost, fortunately. But had they won, it would have created enormous problems as you try to work with the States and try to get the States to take the lead. That's where the battles occur.

We sit here and talk in this committee and it all seems calm; everything is peaceful. But when you go out and talk to a farmer or when you go out and talk to a business, you go out and say to somebody that you've got to fill out this little form in order to get permission to do what you want to do. That's where the real conflict occurs.

Local politicians are out there regulating, trying to implement our regulations. When we say to them, trust us, we're going to give you the authority and then strip it away, I just think it really undercuts the effort to do that.

REGULATION OF GROUNDWATER

Second, I would say what we have talked about how we are going to regulate groundwater in this country. It's not so much of a question of are you going to regulate; I believe we are going to regulate. We're going to regulate lots of ways. But I think we need to develop a regulatory mechanism that's much different than what we've got right now.

I think you're going to have a tough time regulating herbicide, pesticide, nitrate groundwater levels out there under the current regulatory mechanism. I think we're going to have to devise a different way of doing it that either gives you a different kind of authority or attempts, as you said in a report that you and Governor Babbitt produced prior to your taking this job, that has the feds developing the standards—and tough standards, because I believe we need them—and permitting the implementation to occur, somehow, at the local level.

It seems to me that's the proper relationship. It's a difficult one to establish and I don't think we've got the mechanism right now. I just urge, in your internal discussions, some consideration be given to how we're going to get that job done.

Again, I thank you and, you, Madam Chair, for your help last year. It was very, very important for us in Nebraska to have help at Crawford and on Two Forks. It added a significant amount of credibility and trust that's already been there, by the way, from the people of the State of Nebraska toward the Environmental Protection Agency.

SUBCOMMITTEE ROLE

Senator MIKULSKI. Mr. Reilly, we're going to now take your testimony. I know that you'll want to introduce the members of your team. But, as you go through it, it might be helpful for you to know that it is this subcommittee's intention, really, to use itself in a multiplier way to solving some of our major environmental problems.

We have the great honor of appropriating funds here for the environmental appropriation, the EPA, NASA, and the National Science Foundation. We would hope to be able to create a multiplier effect in cleaning up the environment by what we do here, and really linking the policymakers with science, space, and actually even using that to encourage people to come into scientific fields.

We hope the Mission to Planet Earth out at the space agency will be a new tool for you to have good science to make good policy. And that, in studying our own planet, we'll be able to excite a whole new generation of Americans to become involved in science, whether that's going to the Moon or looking at leaking underground storage tanks. And we think both are equally important.

So we look forward to your testimony today and welcome your ideas also on how we can create the synergistic effect and move in this direction. So please proceed.

SUMMARY STATEMENT OF WILLIAM K. REILLY

Mr. REILLY. Madam Chair and members of the committee, I want to thank you for the opportunity to present the President's 1991 budget request for the Environmental Protection Agency.

With your permission, I will ask that the statement be included in the record and I will be brief in summarizing what I want to present.

Senator MIKULSKI. Without objection.

INTRODUCTION OF ASSOCIATES

Mr. REILLY. Let me first introduce my team. I'm accompanied here on the left by Hank Habicht, the Deputy Administrator, and on the right by Ed Hanley, who is the Deputy Assistant Administrator for Administration. Our Assistant Administrator, Charles Grizzle, was unfortunately hospitalized yesterday afternoon.

And over here, starting on this end, is the Inspector General, John Martin. To his left, is James Strock, Assistant Administrator for Enforcement; LaJuana Wilcher, Assistant Administrator for Water; Erich Bretthauer, Assistant Administrator for Research; Dave Ryan, Comptroller; at EPA—and he is right behind me where he needs to be—Terry Davies, Assistant Administrator for Policy, Planning and Evaluation; in the absence of Bill Rosenberg, who is working on Clean Air this morning, is Deputy Assistant Administrator for Air and Radiation, Mike Shapiro. Next to him is Don Clay, Assistant Administrator for Solid Waste and Emergency Response, which oversees, as you know, Superfund; next to him, Linda Fisher, Office of Pesticides and Toxic Substances; and finally, on the end, to the far left, Don Elliott, who is the General Counsel at EPA.

BUDGET REQUEST

I think the budget reflects the complexity and the ambition, the expectations, and the hopes of the American people for the environment. It strikes me that relative to the very large size of the environmental problems that we have coupled with the nature of the commitments that we have made as a country, our budget is relatively small. And the Agency itself is not large.

We address a large number of problems. We have the responsibility to make good on the commitments that the country has made to itself in so many of the laws and programs that we administer. We are, in the area of clean air, as in others that we will address in the months and years to come, making corrections to many of those laws to ensure that they do realize the expectations that we have invested in them.

We also are increasingly involved in trying to understand and address serious emerging problems affecting the very stability and health of the planet itself. To do this, we are requesting a 1991 budget of approximately $5.6 billion and 16,761 work-years.

This budget, looked at in detail, reflects a commitment to a great cooperative enterprise, one that is really between all levels of government; and between government and the private sector, the regulated community, environmental groups, consumers, people in all of their organizations and as individuals.

We are, in the budget, making many important strategic choices. And the important point I would make about it is the extraordinary leverage that we have with this budget. Obviously, with these funds we deploy not merely $5.6 billion but we influence the deployment and the strategic investment of a great deal more money than that; both in our society and in many others as well, like the resources of individuals, of industries, and other countries. Increasingly, I am aware that the entire world is drawing on our example and our successes, our experience, and our authority.

The request for Superfund totals of $1.74 billion and 3,467 work-years is an increase, as you have suggested, of more than $200 million over 1990. Approximately $1.3 billion—nearly 75 percent of the total request—is directed toward site response. Requests for the Leaking Underground Storage Tank Program totals $75 million and 90 work-years. Of this total, resources for the State cooperative agreements total $64.7 million. For the Construction Grants Program, EPA has requested $1.6 billion, virtually all of which is dedicated to State revolving funds.

There are five theme areas that I think should be highlighted as reflecting the priorities that, in my first full budget, I would like to emphasize to the committee. And the first of these is enforcement.

ENFORCEMENT

Enforcement is at the heart of much of what we do. I think a sustained commitment to clear, predictable, consistent tough enforcement gives strengths, vitalizes, makes plausible and believable all of the rest of our programs and gives us performance that often is difficult to measure, in terms of voluntary compliance by people who know we do mean what we say and intend to enforce to laws.

The request for enforcement this year increases 22 percent from 1990. This increase will strengthen EPA enforcement programs to enhance compliance with environmental laws. The increase will add more compliance inspectors, attorneys, criminal investigators, and technical expertise for a balanced technical, legal enforcement program.

Increases in Superfund enforcement will focus on enforcing privately funded response actions and implementing the Enforcement first thrust, a priority that I established in the Superfund management review last spring. I think that the policy is paying off. Last year we had a record number of enforcement actions in terms of referrals to the Justice Department, in terms of settlements, in terms of cost recoveries and contributions by private, responsible parties of over $1 billion.

CLEAN AIR

Second, clean air. We have made clean air legislation the top legislative priority for the President's environmental program. We are asking, in this budget, an additional $82.5 million for implementation of the President's proposed amendments to the Clean Air Act. This request supports the use of innovative approaches to solve many of our complex air pollution problems.

Grants to States and local government will increase by $38 million in order to support State efforts, which are very considerable, in implementing the bill that we have proposed.

SCIENCE

Three, science. Increasingly, with the range of threats to the environment and to public health, it is becoming ever more important that we ensure we understand and are able to use good science to prioritize our efforts.

In this budget, we are asking for an additional $25 million, for research and development activities, bringing the total up to $450 million. And that's 1,891 work-years. These resources will significantly increase our Exploratory Grants Program, our Ecological Monitoring and Assessment Program, our research in support of the U.S. Global Change Research Program, and new research on the Clean Air Act Amendments proposals.

Some new research and issues include oil spill cleanup and assessment, wetlands and the environmental effects of genetically engineered materials.

STATE CAPACITY IMPROVEMENT

Fourth, improving State capacity. I think I rarely meet with a Governor who does not, in the course of the conversation, remind me that so much of what the Federal Government decides matters in the area of the environment finally becomes an obligation on the States and, rarely, comes with resources that are consistent, sometimes, in the views of the Governors with the demands.

We are sensitive to that and, within the context of the budget realities that we confront, are proposing to do something fairly significant about it, by increasing almost $70 million the amount of grants and assistance that we are making to build and support State capacity.

PROTECTION OF ECOSYSTEMS

Fifth, emphasis on protection of critical ecosystems, ecological systems, and critical habitats. The support for critical habitats would be increased in our budget by $18.2 million for a total of $111 million. Particular increases are included for wetlands protection and near-coastal waters.

Those five points represent the broad themes of this budget.

In conclusion, let me simply say that over the past 2 years, the Agency's budget for operating programs and trust funds will have increased by some $600 million. And the full-time equivalents, the personnel and the work force for these activities will have increased by about 2000 people. Our role has grown. Our responsibilities and influence have increased. And I think the President's budget request reflects these new realities.

And I am very pleased and really proud to present this budget to you this morning. I look forward to answering any questions you might have.

[The statement follows:]

STATEMENT OF WILLIAM K. REILLY

Madam Chair and members of the Committee: I want to thank the members of the committee for the opportunity to present the President's 1991 Budget Request for the Environmental Protection Agency (EPA). The President's Budget Request contains good news for the environment.

At a time when new money is very hard to come by in the Federal Government, EPA's operating budget will increase by 12 percent if the President gets his request. Our trust funds for Superfund and Leaking Underground Storage Tanks would increase by more than 13 percent.

President Bush means business when he says he is an environmental President. Over the last two years, the Agency's budget for Operating Programs and Trust Funds will have increased by more than $600 million and our workforce by almost 2,000 workyears.

Today, we face a multitude of environmental problems—local, regional, national and global. Many of these on occasion seem overwhelming. Yet we live at a time of renewed commitment to solving our environmental problems. Concern for the environment is probably at its highest level in history, in this country, around the world, in the public sector and in the private sector. This is why the increase in President Bush's EPA budget request is so significant. We will put the funds to good use.

We have before us a unique opportunity to set the direction and the pace of environmental protection, for this decade of the 1990s and well on into the 21st century. It is critical that we take advantage of this opportunity. The President's budget request provides the resources we need to meet the challenge.

The fiscal year 1991 budget request represents my first full budget as Administrator of EPA. As such, it reflects the results of a careful review by myself and my top managers of the Agency's programs and priorities. As part of this process, my Deputy Administrator Hank Habicht and I started a strategic planning process within the Agency. We will use this process as a guide to focusing our attention on reducing the greatest risks to public health and the environment and to preventing pollution before it becomes a problem.

In addition, our budget recognizes the important international role that EPA must play in solving today's global environmental problems. We will work to strengthen our bilateral and multilateral agreements, and improve the international dialogue on Global Climate change.

OVERVIEW

Let me now turn to the budget. The request for our Operating Programs totals $2.17 billion, an increase of $230 million or 12 percent. We are also requesting 13,204 work-years. Our Operating Programs are the foundation of this Agency. They write permits, monitor conditions, and support in-house science that underlie the Agency's effectiveness. Adequate funding for the Operating Programs has been one of my highest priorities.

For our Superfund program, we are requesting $1.74 billion, an increase of $210 million or 14 percent. We are also requesting 3,467 work-years. The Superfund request provides the resource levels needed to implement the President's initiative in "Building A Better America" by supporting an "enforcement first" approach to Superfund.

The Superfund request level will also enable the Agency to implement the recommendations made to me in the Superfund 90-day Management Review. As a component of our strengthened enforcement program, we project our receipts to increase 65 percent over fiscal year 1990 in the critical area of financial recoveries and fines. In addition, in 1989, we achieved over $1 billion in settlements with private parties.

In the Construction Grants Program we are requesting $1.6 billion to accelerate our capitalization of State Revolving Funds. This request will provide a solid foundation for financially secure State Revolving Funds. The States can leverage this capital to provide support for their facility needs. In our Construction Grants request, we are asking for almost $16 million for a special project to help solve a long standing international pollution problem between the United States and Mexico—that's sewage treatment for Tijuana. This is the first request by any President for funds to build a joint United States-Mexican sewage treatment plant to solve this problem.

Our fiscal year 1991 Budget Request lays out a number of themes and priorities where we want to see progress over the next several years.

POLLUTION PREVENTION

First, pollution prevention. We have made enormous progress in the last 20 years in abating pollution. Most major point sources are now under some control.

As we move into the 1990s, however, our strategy for reducing environmental and health risks must evolve to meet new circumstances.

We are now faced with trying to control pollutants from large numbers of widely scattered sources; many of our current environmental problems, such as indoor air pollution and ground-level ozone, are linked to thousands—if not millions—of small sources of pollution; and our traditional approaches to pollution control are no longer sufficient by themselves to do the job.

If we are to succeed in our mission, pollution needs to be prevented before it becomes a problem. Pollution prevention is one of this Administration's highest priorities, and it is a critical new arena for this Agency. We have already begun the job of infusing in all our programs the philosophy of pollution prevention.

A major goal of this Agency is to promote waste reduction and recycling. Reducing wastes often means greater efficiency in production and avoids the dramatically higher costs—as evidenced by Superfund—of later cleaning up and restoring damaged resources. Pollution prevention and recycling will create new markets and new technologies, and should help contain the skyrocketing costs of disposal.

The Agency is making a substantial investment in Pollution Prevention activities. Our request is structured to favor private market incentives and to strengthen State and local capabilities wherever possible. We want to identify options, support demonstration projects, disseminate information, and provide technical assistance.

ENFORCEMENT

Another top priority in our budget is Enforcement. Strong, vigorous enforcement of our Nation's environmental laws is the key to EPA's credibility. It is vital to our regulatory functions.

In the past year we have made important progress, setting or approaching record levels in virtually every area of enforcement.

For example:

The Agency referred 62 criminal cases to the Department of Justice for prosecution; penalties assessed against violators totalled $42.8 million; active consent decrees reached 588; and all record high levels for the Agency.

We must keep the pressure on. This budget request serves notice that President Bush and EPA are committed to sustained, tough, predictable enforcement of the Nation's environmental laws.

Our experience with Superfund and other programs indicates that strong enforcement ensures better results. It is a fundamental element of the Agency's program and credibility. In just the last two years, our staff has increased by almost 1,000 people devoted to enforcement. The Agency's total budget request for enforcement activities will be $418.5 million and 4,242 work-years. This represents an increase of more than 20 percent in the dollars available for enforcement.

Hazardous waste enforcement will increase by $18.6 million and 95 work-years. This will significantly strengthen the Agency's oversight of cleanups at operating hazardous waste management facilities.

In Superfund, the Agency will even more aggressively pursue enforcement of toxic waste cleanups by responsible parties. (This was one of the results of my 90-day management review.) We have already made a substantial commitment by proposing this past year to use $75 million and to hire 500 new people to support increased enforcement and related activities implementing the Superfund Management Review recommendations.

The Agency will increase enforcement activities under the 1988 Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act. Additional resources will help us develop and implement policies, strategies, regulations, and enforcement cases and carry out other responsibilities.

CLEAN AIR ACT

Passage of the Clean Air Act Amendments is one of President Bush's top legislative priorities. In July 1989, the President sent to Congress a comprehensive legislative package, "The Clean Air Act Amendments of 1989." Last week, under the leadership of Senators Mitchell and Dole, a group of Senators and Administration officials negotiated a bipartisan compromise bill that offers a real chance of getting a Clean Air bill this year. This represents a historic milestone. Since enactment of new legislation appears likely during this Congressional session, our 1991 budget requests the resources needed to implement the President's bill.

The President is requesting an additional $82.5 million and 247 work-years for the Agency to implement the legislation. These resources will support numerous activities. An increase of $21.5 million is provided for regulatory and guidelines development and technical assistance to the States. In addition, an increase of $9.2 million will be targeted to the mobile source program, including an innovative clean fuels program. The largest area in the Clean Air program is State Grants. In total, $38 million goes to the States in grant money to implement the new legislation.

CRITICAL HABITATS

We must vigorously renew our commitment to maintaining the country's ecological heritage and preserving our natural resources. The fiscal year 1991 request strengthens this Agency's commitment.

The President's budget requests $111 million to increase significantly protection of fragile coastal areas and estuaries, and to provide additional resources as we develop the President's policy of "no net loss" of wetlands. Increases will support the development and implementation of strategies and demonstration projects and fund technology transfer activities for the Chesapeake Bay, Gulf of Mexico, and Great Lakes programs.

Priorities in the Chesapeake Bay program will focus on nonpoint source control projects for the States of Maryland, Pennsylvania, Virginia, and the District of Columbia. Emphasis in the Great Lakes program will continue to focus on remedial action plans.

STATE CAPACITY

Another top priority is building State capacity. The President's budget recognizes the essential role that federal assistance plays in building the capacity of States to assume critical roles in implementing the Nation's environmental programs. The Agency's total budget request for State Capacity building activities is approximately $644.8 million and 1,415 work-years.

As I have previously stated, the President's request provides an additional $38.5 million to support State efforts in clean air This program will support training of State and local personnel, implementation of State permit programs, further development of monitoring networks, and preparation of new State Implementation Plans.

The President's request also includes for the first time $14.3 million in grant funds for nonpoint source pollution prevention and control programs. Wetlands implementation grants will enhance State and Indian tribes wetlands protection activities.

We are also requesting more resources for a Pesticides and Toxic Substances Initiative to strengthen programs in our regional offices related to pesticides in ground water, farmworker safety, endangered species, PCB removal and disposal, and asbestos abatement activities.

In the waste area, we have a $20 million increase in RCRA hazardous waste capacity-building grant programs because of the permitting load and the enforcement and corrective action load, which is growing. The States will carry about 80 percent of the permitting load under RCRA which is growing dramatically through 1992.

SCIENCE

The 1991 President's budget request includes $449.6 million and 1,891 work-years for research and development activities, an increase of $25.1 million and 11 work-years over 1990.

The array of environmental issues with which we must deal is broadening dramatically. To respond, we must bring together research and data with regard to broad impacts of human activity on ecological systems and on human health. Long-term research is going to be increasingly important. An increase of $23 million will improve the Agency's long-term research capability.

Funding for academic research grants and centers will increase by $11.8 million. An increase of $1.7 million will strengthen basic research on health risks, primarily by establishing a new Center on Environmental Epidemiology. Our ecological monitoring and assessment program will increase. Finally, $2.6 million is included to ensure that in the future state-of-the-art science is available to guide environmental decision-making.

In FY 1991, we will significantly expand our research to support the federal integrated program on climate change. We will be doing our part in the context of the substantial administration increase in the fiscal year 1991 budget for global climate research. Increases will support enhanced research on: natural air emissions inventories; near-coastal ecosystems effects; effects to U.S. fishing beds and species; and analyses of sources and sinks of important trace gases.

Yet, even as we acknowledge the need for long-term research, we cannot neglect our short-term research, which is critical in supporting EPA's regulatory programs. We will also begin to undertake some new research initiatives required by the President's Clean Air Act Amendments, including acid rain, urban air pollution, and toxic air pollution. Other continued clean air research will include alternative fuels, acid aerosols, emissions inventory methodologies, and regional ozone models around major cities.

A $1 million increase in resources will focus on assessing cleanup technologies and effects on ecosystems from oil spills. In addition, we will be accelerating our research activities on wetlands, and on the environmental effects of genetically engineered materials.

In conclusion, let me say that the President's budget request for EPA represents a significant commitment by this administration to ensure that the public is protected from the most serious environmental threats, now and in the future.

This year the Environmental Protection Agency will celebrate its 20th birthday. We will also celebrate the 20th anniversary of Earth Day, which was first held on April 22, 1970. As we prepare to observe these anniversaries, it is appropriate that we renew our commitment to the environment and to the important mission of EPA in protecting and improving it.

Madam Chair, I will do my best to answer any questions you and other members of the Committee may have. Thank you.

HEARING PROCEDURE

Senator MIKULSKI. Thank you, Mr. Reilly.

We're going to observe the 10- or 15-minute rule and move into our lines of questioning now. And, as we move through the answers, feel free to call upon your staff in any way.

You know, when we listen to our testimony and even as we go through the discussion, numbers and words really don't give you the picture of what it is we want to do.

LINKING OF RESOURCES TO ENVIRONMENTAL RISKS

And, Mr. Reilly, my first question is really the linking resources to environmental risk. I believe in a risk-based priority system of funding. Just like our friends and associates in armed services should direct the strategic concerns of the United States in what is the biggest threat to the United States, we feel that we should look at our environmental budget as to what are the biggest environmental threats to both the United States and to the planet because there is international linkages of course in this.

My question to you would be, What do you think are the three biggest environmental risks facing us and how does your request match that? We note that the EPA Science Advisory Board was supposed to tell you what those were. We understand that the report itself is late coming and, therefore, would like to know—because we had intended to use the report as part of our own guideline. But let's hear from you then what you think are the big threats.

Mr. REILLY. Well, let me say that, first of all, I completely agree with you that we need, very urgently, to assess risks and to assess our program insofar as it reduces them. We have underway at the Agency a strategic planning exercise that is dedicated to trying to determine which are the most significant risks and we are concerned with developing a plan oriented toward reducing them.

Risk reduction and pollution prevention are the themes that we have given to our programs and to our regions in trying to assess overall how we should prioritize our problems and deploy our resources.

As you mentioned, the Science Advisory Board has been given the additional task of moving the unfinished business report that tried to prioritize problems, according to the best professional judgment of the Agency personnel, a couple of years ago. The report was very innovative and far-reaching and even brave. We want to take that report further and begin to line up what are the most serious risks, and to ask: Are we addressing them adequately? Are we perhaps addressing others that are lower risk? And as we understand more we will look at those problems that are perhaps more difficult to justify.

MAJOR RISKS

Regarding the major risks that I would cite—I think you asked for three, obviously there are many ways that one could cut these problems. But I would have to say, first—without suggesting that these are necessarily in rank order—that the problems posed by potential global climate problems and planetary destabilization, those affecting the stratospheric ozone and climate systems generally, have to rank very high.

We don't have a conclusive fix on the seriousness or urgency of some aspects of those problems but we do on other aspects of them. We hope to get that. And I think the budget, not just of the Environmental Protection Agency, but of other agencies, including NASA which, you are obviously very aware, demonstrates this concern. I think you're beginning to see the interplay between NASA and EPA's budgets on climate change the kind of constructive mutual support and reinforcement that you called for last year and again mentioned this morning.

The second of these major priorities of concern is, to me, air quality—air quality affecting toxics and urban smog, acid rain, indoor air pollution, and the whole range of risks that are uniquely unavoidable from this most democratic source of exposure and pollution. I think the budget strongly reflects that priority and certainly the present Clean Air Act proposal is intended to as well.

Third, the general degradation of ecosystems. The concern is to ensure that the degraded ones are restored and that those that are not impaired or protected have a very high priority, perhaps a higher priority than the Agency has given it in recent years. Ecosystems, obviously, are affected fundamentally by the way that we use resources, by the way that we dispose of waste, by the fact that this culture uses and throws away more than virtually any other I'm familiar with. And many of the programs that we address are concerned, in one way or another, with protection of ecosystems—groundwater, wetlands, coastal resources, and so forth.

I think I would list those in response to your question.

Senator MIKULSKI. Well, I appreciate that and, actually it is an excellent framework for us even to pursue our line of questioning.

RISK-BASED FUNDING

This idea of risk-based funding, we find to be an important tool, not only in this committee but, I think, also needs to be in the budget. For example, our kids are more at the risk right now of cocaine than communism. But our budget will reflect that we're still more worried about communism than cocaine.

In the FEMA request we continue to plan for nuclear war with the diminished threat and yet, we're more at risk from hurricanes and earthquakes and yet have very little in our planning on that. And this is the direction we hope the committee will go in where we really have human life as a part of our responsibility—whether it's in FEMA, in HUD, or your Agency.

So this will be extremely helpful to us. And then we're going to be looking at the budget and I'll be using this as we talk.

SEWAGE TREATMENT CONSTRUCTION GRANTS

Mr. Reilly, you talk about the degradation and, of course, this takes me to a topic that is not the kind of thing that gets headlines and bylines but it's sewage treatment construction grants. And yet probably, as any one of those of us that have been involved in local government or urban planning—as I know that's your background— know that sewage treatment construction is so critical to us.

We note that there's been a cut. You feel there is an adequate linkage therefore to go to the State revolving funds. According to what we were able to find out, EPA's last needs survey estimated sewage construction needs nationwide to be $83 billion.

Now, part of what we would hope would be a peace dividend is investing in our own country and its infrastructure, which you talked about here. What is the Agency's current estimate of unmet sewage construction needs, and then how do you feel this cut in the sewage treatment funding would go to meet that need?

Mr. REILLY. Well, I'll ask LaJuana Wilcher to discuss the needs study in some detail with you, if you would like. It is in the range that you suggest. The numbers are in the many, many billions of dollars. And I think merely mentioning those numbers makes clear the virtual impossibility in the present budget climate of making a substantial dent in the near term.

We have, in the history of the water program, committed to some 7,000 construction grants in a range of $52 billion. That is a very substantial amount of support. It represents more than adequate conduct of the partnership that was established in this program. And, as funds—and I said this last year and I don't think it was particularly well received—but if we do inherit something of a peace dividend that comes to benefit the environment, I'm not sure that I would recommend it go into the Wastewater Treatment Construction Grants Program, given that history, given the fact that we do have a whole range of other unmet needs.

PHASEDOWN OF PROGRAM

I would say that the commitment that the administration and Congress together have made, to phase this program down and to try to capitalize the State revolving funds, is the right way to go. And this budget, while it is down from last year's appropriated amount somewhat, represents a very substantial increase, $600 million increase, in the commitment to the State revolving funds.

So we are moving in that direction. There has been some difference of opinion about how fast that phasedown should take place. But I think this is a substantial amount to that program. And we'll go as far as we can feasibly and prudently go, within these budget circumstances, to meet some of the needs that are out there.

I might ask LaJuana Wilcher to respond on the question with respect to the overall needs that are out there.

Senator MIKULSKI. If she can be brief, Mr. REILLY.

Ms. WILCHER. The last needs survey was done in 1988. And we should have another one probably sometime this fiscal year; it's done biennially.

Senator MIKULSKI. But $83 billion, right?

Ms. WILCHER. Yes, ma'am.

Senator MIKULSKI. And that's your needs survey—what it would take for us to meet our current sewage treatment needs, not even our anticipated ones in the future; is that right?

Ms. WILCHER. It would also include estimates of our future needs for the next 20 years.

STATE REVOLVING FUNDS

Senator MIKULSKI. Well, the Clean Water Act that we passed in 1987 said that we were going to replace direct grants with State revolving funds. And we're going to do that by taxing sewage treatment plant users. And we understand that that could be a price tag again of $75 to $80 billion.

And my concern is, do you believe that we will have the capacity to raise that or are we setting ourselves up for a future environmental and financial crisis and are we going to have to be running in here with a sewage treatment bailout, like we did with S&L's? And I think there's a lot of similarity in both of them.

Mr. REILLY. Well, I think the priorities that the public gives to the environment aren't just at the national level, which has been reflected in this historic program over the years. There are indications at the State and local levels that the public, in most areas, are prepared to move up to these responsibilities and appropriate these funds, through bond issues, through borrowing, through developing and contributing to the State revolving funds.

There are any number of jurisdictions that are making very substantial commitments to clean water and I have every reason to expect they will continue to.

Senator MIKULSKI. Well, I feel that in some ways these are like payments that we encouraged governments to think that they were going to get from the Federal Government. In some ways we've either fathered or mothered some of these programs and then we're not willing to meet our support payments.

And our concern is that I probably get more calls about sewage treatment and wetlands, and I'll talk to you about wetlands in a minute. We could pursue this conversation but my time for the first round has expired.

I'd like to yield to the Senator from New Jersey, because I know you want to, I think, bring up Superfund, which is a very important item in the budget.

Senator LAUTENBERG. That's a good idea, Madam Chairman. Thank you.

SUPERFUND REAUTHORIZATION

Senator MIKULSKI. I helped write the Superfund legislation with then Congressman Florio, now the Governor of New Jersey. These New Jersey guys are real big on the Superfund.

Senator LAUTENBERG. Well, we have a little State with lots of people and the problems of our States are similar. And the Superfund program, we all worked very hard and then-Congressperson Mikulski and I in the reauthorization process. The reauthorization took a long time but we got it done. That is the example I use to encourage those who have any concerns about rapid development of the Clean Air Act. I point to what happened to the Superfund; we got a good bill.

Anyway, the law requires EPA to start 200 new cleanups in the final 2 years of this reauthorization. Your budget doesn't project compliance with that requirement. And I've got to ask you, why have you submitted a budget that won't result in compliance with a legally binding requirement?

Mr. REILLY. Well, let me say that, first of all, we have done pretty well on meeting the requirements over the past year. And we've met the target, as you know, for remedial action starts this past year.

We expect that, of the 200 that are out there as an objective for the next 2 years, we will get to 122. That 122 figure represents a substantial commitment. It represents the consequences of a great deal of work that has gone before, to bring sites to the pipeline so that they are ready for the initiation of cleanup. We've had substantial interruptions over time in that program, as you know.

We've also experienced 2 years running when the President requested several hundred million dollars more than the Congress, in fact, appropriated. We have used the funds that have been appropriated to us efficiently and we propose now to take, not a 1-year perspective on the remaining funds and authorization that we have, but a 2-year perspective, given the fact that the taxing authority, under CERCLA, expires with fiscal year 1991.

SUPERFUND BUDGET

Now, if you look at it that way, as I think we must, looking back particularly at the hiatus that occurred some years ago and the debate over reauthorization of Superfund that went on for a protracted period, we are asking for $1.74 billion in Superfund. Assuming that the request is appropriated in this Congress, it will leave for the future $860 million of funds that are authorized in the law, that's from general funds, not from the taxing authority—out of which we have to repay some $730 million that was borrowed to get the program restarted in 1986 and 1987.

We expect to receive an additional $330 million in CERCLA taxes in 1991 that will contribute toward resources that we have available in 1992. If you run out those numbers, $860 million plus $330 million, and then subtract that $730 million that we've got to pay back, it leaves a very inadequate amount, some $500 million, for 1992. We estimate that the additional projects in the pipeline to get to 200 starts will take some $650 million more for remedial action. So I think that this budget——

Senator LAUTENBERG. Bill, I appreciate the lengthy——

Mr. REILLY [continuing]. This is a budget that reflects the reality we've got in a program that we don't want to see interrupted again with another loss of momentum.

SUPERFUND CLEANUPS

Senator LAUTENBERG. Well, yes. But that's not— that's not—forgive me—the mission that's been assigned to you. To be looking ahead, we have a remaining 2 years on this program. And you have a legal obligation—a legal obligation—to deal with the 200 cleanups. And you tell me, yeah, you have 122 and that's not bad. If I can summarize your response you're basically sayinf that it's not bad and there's all kinds of fund considerations.

The question has to be fairly simple. Does EPA have a legal obligation? If they have, then I think you have a responsibility to request the funds to meet that obligation.

I think to discuss whether or not we appropriated less than the President requested in the last couple of years doesn't get us very far. Because in the first year we were $300 million over the President's request. So the funding was there initially.

The administration forces the choice of what I call the fatal option. Either one that you choose gets you to Deadsville. If we pick the Superfund, we take it out of sewage construction grants. And I frankly think that it would be encouraging, at least to me and I think to some of my colleagues here, to hear you say, "No, this is what we'd like to have to do the job." And I don't get that.

I must tell you, what I get is a very elegant response to the question, Mr. Reilly, which doesn't do it. Don't you have an obligation to deal with those 200 cleanups?

Mr. REILLY. We have a range of legal obligations that would justify a budget many orders of magnitude higher than the one that we proposed.

Senator LAUTENBERG. Well, let's discuss this one. Do you want to check with counsel? I mean, don't you have a legal obligation to do that which was written into the law?

Mr. REILLY. No; I think that we have the obligation to make an effort to try to ensure that the program that has been so criticized for so many reasons in the past is efficiently run, is directed toward some very specific and unambiguous priorities. We have done that in the Superfund management review. We are looking for the enforcement priority to give us a lot more compliance than previously we have had in the program and, possibly, to do better than that 122 remedial action starts that I listed.

I would hope that we will. I would hope that, as the responsible parties see the consequences of the serious enforcement efforts here, they will voluntarily come forward, as they have begun to do, in record numbers and settle with us and commit their own resources to cleanup.

We've got to compel a lot more private party contributions. And we're doing that and——

ENFORCEMENT ACTIONS

Senator LAUTENBERG. How many enforcement actions did we take in the last year?

Mr. REILLY. Over $1 billion in the value of settlement contributions; that is, response work committed by PRP's.

Mr. STROCK. About the different types of CERCLA section 106 removal and remedial orders combined, we reached agreement on over a hundred, I believe.

Senator LAUTENBERG. What about coercive enforcements? How many of those did we have where EPA said, this is what you're going to do and not negotiate it?

Mr. STROCK. There were two separate kinds of those. On the removal side, quite a significant number. I believe over 50. On the remedial side, about 25.

Senator LAUTENBERG. Is that—these comparisons are not very satisfying. I mean, is that—in your judgment, is that good performance, do you think, that with all of the responsible parties out there that we're aware of, is 25 enforced settlements, coerced settlements good achievement.

Mr. STROCK. Senator, if I might, to the extent that the section 106 coercive order works, ideally you will have to use fewer of them. So I believe that relying entirely upon the number may not be the sole criterion you would want to use.

I would say that the overall number of settlements reached last year, which dramatically increased to a value of over $1 billion in PRP work to be performed would be a useful reflection of the use—of the increase in the section 106 orders.

SEWAGE CONSTRUCTION

Senator LAUTENBERG. We don't have much time, and I thank my colleagues for their indulgence. I've got a couple of short questions here. We heard about the sewage construction issue. That job is not being approached properly in terms of what the Congress agreed to, in terms of what's been requested, and we can talk about the revolving funds, which was a compromise, because that's where we had to go. We were going to get out of the sewage construction assistance business, which I think is terrible.

These communities can't handle it. These are very often intrastate, intracommunity effects and I would believe, and do believe, that the Federal Government has a much large role.

RIGHT TO KNOW

On right-to-know, you know that this is a favorite of mine. Linda Fisher is only too well aware of it. The National Response Center, the data shows, chemical accidents have more than tripled since 1982. Why is the budget cutting the right-to-know funding for the Office charged with emergency planning and prevention?

Mr. REILLY. Well, that budget has gone up steadily. Are we talking about the right-to-know generally?

Senator LAUTENBERG. Just the section on emergency response.

Mr. CLAY. That reflects the fact that the congressional add-on did not go back in the budget. The amount we asked for has gone up continuously. But the1990 congressional add-on is not reflected in the budget.

Senator LAUTENBERG. OK. We are—we're asking less than was appropriate for the response section. The right-to-know emissions inventory last year, as I hope everyone here agrees, provided us with some startling and valuable information on how air water and land is being polluted.

Getting that data out was a huge task. And I commend your people. I know they worked very hard to get it done. Projections suggested the number of forms coming to EPA is going to increase significantly.

There was a budget cut for the office charged with collecting and developing this important data.

Ms. FISHER. Senator——

Senator MIKULSKI. Excuse me. Could I ask, when your team responds that they could stand, identify themselves and speak in the same expository way you did, Mr. Reilly?

Mr. REILLY. Or that you do, even better.

Ms. FISHER. I'll try.

I'm Linda Fisher. We did decrease the baseline FTE for the community right-to-know program. That's to reflect the fact that, even though we're going to have more forms than I think were anticipated—perhaps as many as 40,000 more forms this year—the process of setting up the system and developing the infrastructure to process those forms has already been accomplished. So we think we're going to be able to accommodate gathering the data and getting it into the system without the same concentration of resources that we had in the past.

Mr. REILLY. I might say, Senator, that I think the effect of that TRI data has been absolutely astonishing. I don't know whether you anticipated that it would be as great as it has been. The public awareness, the ability to disaggregate the data and look at specific areas, the national interest as indicated in the headlines in the newspapers of so many local newspapers, and the continuing use and effect of the TRI data is amazing. I think it has significantly enhanced the possibilities for reauthorizing and strengthening the air toxics provision of the Clean Air Act.

Senator LAUTENBERG. I have to respond—forgive me— to Linda, Linda Fisher's explanation. The 1987 data came in July 1988 and it wasn't available in final form until spring 1989. The 1988 data came in July 1989 and won't be ready until spring 1990. So, even though it took some time and persistence developing the program, et cetera, the fact is it would be more effective if we got this information out more speedily.

Thank you.

Senator MIKULSKI. Senator D'Amato, we welcome you here. The committee hasn't finished its first round of questions yet—Senator Kerrey and then you.

Senator D'AMATO. Thank you.

CORPS OF ENGINEERS RESPONSIBILITY

Senator KERREY. Mr. Reilly, I've got seven or eight questions that I will submit for later answering. Some of them relate to an agreement between the Corps of Engineers and a natural resource district. I also have questions about when the solid waste regulations are going to be issued and what sort of effort is going to be made to assist rural areas that are currently not under compliance and are concerned about cost. I'd appreciate being able to submit thesel and get answers later.

Senator MIKULSKI. Is that a question?

DIRECTION AND PACE OF ENVIRONMENTAL PROTECTION

Senator KERREY. The only questions that I would ask here and would like to get an answer on now involves the budget request as a whole. On page 2 you say:

> We have before us a unique opportunity to set the direction and the pace of environmental protection, for this decade of the 1990's and well on into the 21st century.

Then you follow by saying:

> It is critical that we take advantage of this opportunity.

I agree with you in both of those two statements.

And then you follow by saying:

> The President's budget request provides the resources we need to meet the challenge.

PUBLIC ATTITUDE TOWARD ENVIRONMENTAL ISSUES

Let me say that I disagree with that.

But, before disagreeing, it seems to me that it's also important for us to say to the American people something that I heard you say in your opening statement: In the end it is our attitude toward the environment that's causing the problem. Not only is it individuals that are working for companies that are polluting and don't feel like we have a right to know what they are doing, in some cases it's government that's had a rather cavalier attitude toward the things they're putting in the soil or the things that they're putting in the water. In many instances, it's people in their own homes; it's people on the farms. It is a public attitude that essentially says. "Out of sight, out of mind."

"After I've used it, throw it in the trash and somebody will come and haul it away in the morning."

The Senator from New Jersey could tell you that New Jersey—he said that the problems in New Jersey are not like they are in Nebraska. Fortunately, that's true, since they're hauling their garbage to Ohio now. They may be looking to Nebraska soon as a second site.

And that's not as a consequence of underfunding. That's not a consequence of any budgetary consideration. The question that I would have is, Why aren't you and the administration saying to the American people. We've got a lot better job to do here. Now we aren't handling our trash right; we aren't handling our chemicals right. We just aren't doing it right.

We've got a lot of data that concludes that it is expensive for us to continue the habits and patterns we've developed. But there's a typical attitude we have. It's the other guy that's the problem. But in fact we're all in it. We're all potentially responsible parties in this deal, it seems to me.

And the question is, Why doesn't the administration look the American people in the eye and say. We've got to clean this place up; we are not behaving the way we ought to be behaving?

Mr. REILLY. Well, let me say, that's an excellent question. And I think that I would answer it by simply saying that two things that are at an all time high in this country are concern for the environment and expectations that we address our environmental problems more seriously: take them more urgently, on the one hand, and consider the generation of waste, per capita, on the other.

We produce more, we dispose of more than virtually any other society, with the possible exception of Canada. I think the Canadian Minister told me recently he thought they had the edge on that, per capita, in terms of waste. But we produce twice as much per capita as the West Germans produce and three times as much as Japan.

We in this Agency can point with some pride to the fact that the Agency, in closing off avenues of unwise and environmentally destructive disposal, have brought this issue forward in a way that, certainly 10 years ago, it wasn't at all, to the point where we're now seeing concern both for the environment and for economics of disposal begin to converge and require us to do some things very differently.

ENVIRONMENTALISTS

Senator **Kerrey**. Let me give you a specific example. Secretary Yeutter's a Nebraskan and a friend, I assume. We've disagreed a few times; I assume the friendship's still intact. In addressing a group of chemical manufacturers, he said. "Farmers are environmentalists."

Now, come on. That's a patronizing statement to make. Farmers don't begin as environmentalists, anymore than I begin as a Senator as an environmentalist of a politician begin as an environmentalist or a restauranteur. I mean, it's too much to expect a producer, who's having to pay the bills and stay alive, to be anything other than concerned about their family, first of all, and making money, second. There's nothing wrong with having an attitude that says they're supposed to be profitable.

There are statements that I hear repeatedly that don't conform, it seems to me, with what the American people are doing. Now, I agree that there's an increasing amount of concern but there doesn't seem to me to be sufficient amount of identification with the problem—with understanding—that it isn't a bunch of Democrats that are asking for more regulation or a bunch of Republicans defending against that regulation. There's a group of Americans that are wasting—wasting— things constantly. So much so that New Jersey's hauling their garbage to Ohio. So much so that we've got problems in groundwater in the State of Nebraska. And we're working to try to solve those problems.

But it seems to me that what is missing is for the leadership—yourself, with all due respect, and the President, with all due respect—looking the American people in the eye and saying. "Folks, we are not doing what we ought to be doing."

Mr. **Reilly**. Well, I think we have made that a priority. I've certainly addressed that issue in very similar terms to the way that you have just now. We've perhaps not gotten as much attention. I suppose we can't expect things to change as substantially as we might like in a short time, but I think things are changing, with respect to agriculture.

I recall a couple of years ago, the No. 1 issue of concern in rural Iowa was groundwater protection. And we discovered very serious reasons for that. Across the country, our national pesticide survey, which is going to be released later this year, will document specific facts about the extensiveness and seriousness of that problem.

Senator **Kerrey**. But, while I'm developing an individual groundwater management plan for farmers in the Central Platte Natural Resource District, which is precisely what we're doing for each farmer, people 5 miles down the road in Kearney, NE, have stuff in their medicine chests that's worse than what the farmers are putting in the ground every single day, they are applying more on their yards, that are putting more in their trash that is offensive to the environment than what the producers and farmers themselves are doing.

It seems to me that what's missing is looking the American people in the eye and saying—as I've said now or the third time—that, "It's our behavior that's creating the problem."

Mr. **Reilly**. Well, we have looked for opportunities to apply the Agency's hierarchy of pollution prevention, source reduction, and recycling the waste that we are left with across the board and we'll continue to do it. I think one of the most notable examples I would point to was the recent regulation on municipal waste combustors and incinerators, where we actually define the best available control technology to include in a local jurisdiction that assures a significant recycling commitment. Also, we have very sharply racheted down the amount of heavy metals and toxics that could come out of stacks which will have an effect on the ash that's left and its toxicity. Overall, this should simply move the direction of communities to understand the effects of their waste and its cost.

We'll do that in other areas as well. No one imagined that the Clean Air Act that we were implementing in that rule offered these kinds of possibilities a few years ago. We do see those possibilities. I think the public wants us to take advantage of them and we will intend—we will do that.

Senator **Kerrey**. I think you're missing an opportunity, the opportunity you've identified there. I quite agree with you, that the American people are prepared to change. But with both the budget and the attitude, I think you're missing an opportunity.

Senator **Mikulski**. Senator D'Amato?

Senator **D'Amato**. Thank you, Madam Chairman.

It's good to see you.

LAKE ONONDAGA

Mr. **Reilly**. Good to see you.

Senator **D'Amato**. I think we've indicated to your staff the concern that I would raise today, Administrator Reilly, which is as it related to Onondaga Lake. I've received a response from you dated December 22 in which you stated that the EPA has been monitoring this lake. Onondaga is up in Syracuse and has been known, or has been labeled by some as the Nation's dirtiest inland waterway.

You indicated that you would be monitoring the actions that the State was taking and, in the process, of assembling whether there was a need for a further Federal role. I'm wondering if your staff has given you the information in regard to that and what role, if any, you believe is necessary.

Let me give you a little more information while you peruse that. Last month the Lake Management Conference had its inaugural meeting, what specific initiatives is the EPA undertaking as a result of that meeting. That lake has incredible potential and I think we can take it from literally a wasted resource and turn it around and have tremendous beneficial impact for all of central New York.

Mr. **Reilly**. Well, I'm aware of your concern about the lake, Senator. I have spoken several times with our regional administrator about it. He participated in February in the inauguration of the Onondaga lake Management Conference with a number of members from the local government and with Senator Moynihan, Representative Walsh, and the Governor.

That conference had, as its purpose, the development of a plan. And, as a result of that, I believe a grant has been requested by the Agency which we are processing.

LaJuana, do you have anything more recent on that? LaJuana Wilcher.

Ms. **Wilcher**. Yes; we're expecting the conference that was initiated last month to submit a grant application for the funds that have been programmed for Onondaga Lake Management Conference. And we expect that application will be in sometime by the end of this month.

Senator D'**Amato**. Are we talking over and above the $0.5 million that we put in or are we talking about the same dollars?

Ms. **Wilcher**. The same dollars.

Senator D'**Amato**. The same dollars.

Ms. **Wilcher**. Yes, sir.

Senator D'**Amato**. Now, come on. Look, in September, I sent you a letter and we spoke. I didn't get a response until I called your office three or four different times. I don't know if you know it; I would hope that you knew it. And December 22, I get this letter, only after repeated phone calls. I have yet to get a call from the regional administrator.

You asked me to support him; I supported him. And we're getting doubletalk. Nonsense. No communication. And I resent it. Now, I want to know why you haven't authorized the U.S. attorney to take any action as it relates to that lake?

[Pause.]

U.S. ATTORNEY INVOLVEMENT

Senator D'**Amato**. Do you know why? Now, the State's taken action and the U.S. attorney wants to do something, and you're not supporting it. Why?

Mr. **Reilly**. I am not aware that the U.S. attorney wants to do anything with respect to that lake. We are not.

Senator D'**Amato**. Well, would you let us—you're not aware of that?

Mr. **Reilly**. Nor am I aware that we're blocking or somehow interfering with his anchors.

Senator D'**Amato**. Yes; that's right. That's right. You haven't signed off. You're not pursuing that. I—well, look. I called your office three or four times. I know you're a very important man. You haven't had the decency to pick up the phone and return a phone call. You give me a form letter where, "We're monitoring this." I don't think that's right.

And that's not what you and I talked about, when you came into office and when the regional administrator came into office. And I'd like you to assign somebody to this, to be a little bit more responsive. Do you think that's too much?

Mr. **Reilly**. Not at all.

Senator D'**Amato**. One area that I ask you about, Lake Onondaga, is it an important consideration? Now, you tell me about you're preparing money for a grant. We put that money in the Appropriations Committee. You didn't do a damn thing; you didn't ask for it. So don't tell me that all of a sudden, oh, we're working on this thing. Yes; As a result of the conference—that conference we pushed for.

ROLE OF THE FEDERAL GOVERNMENT

Now, what specifically should the Federal Government be doing as it relates to that lake? Now, I don't mind if this was the first time I brought this up to you. But I tell you, I spoke to your personally back in September; I followed it up with requests to you and December 22, I get a letter. I get nothing pursuant to that. Your regional administrator doesn't talk to me. You know, once he's on board, everything's honky-dory. Oh, we got the regional administrator; he's going to work with you, Senator.

As they say in Italian "Niende," nothing [gesturing].

Mr. **Reilly**. I don't think that's fair to Connie Eristoff. He has—as I mentioned, he was at that conference. The conference just took place about 3 or 4 weeks ago.

Senator D'**Amato**. It isn't fair? It isn't fair?

Look, prior to the conference, there's been no contact; since the conference, there's been no contact. And I want to know, what are you saying to me:

"December 22—EPA is looking carefully at the lake to assess whether there is a need for further Federal role."

December 22. Now, I'm asking you, is there a need for further Federal role and what is that need?

Mr. **Reilly**. Well, let me get back to you with the specifics. You raised something on the U.S. attorney's concern that I apparently need to talk to him about that issue. If there's some sense that we are obstructing what he otherwise believes he should do and wants to do, that's news to me.

Senator D'**Amato**. Well, who will let me know this?

Mr. **Reilly**. On that issue, I will myself.

Senator D'**Amato**. Will you? I mean, am I going to finally get through to you?

Mr. **Reilly**. I'm not aware of those phone calls I've not returned. I'm sorry about that.

Senator D'**Amato**. You're not?

Mr. **Reilly**. It's not my practice not to return calls from Senators.

Senator D'**Amato**. Not once, a number of times. And that's why I'm as annoyed as I am.

Mr. **Reilly**. And these calls were to me directly?

Senator D'**Amato**. Absolutely, to you. And I spoke to your wonderful assistant, and I can't blame her, and you were on the run. And you can do it once, and twice. But I have to tell you, as it relates to this area, it seems to me that a legitimate request and concern has not been addressed in a manner in which it should be.

Mr. **Reilly**. Well, I'm sorry that has happened and I will get back to you on it.

Senator D'**Amato**. Here's your letter. I'll give it to you. I'll give you the yellow; that's December 22. That's the response from September 27 of last year. That does not detail the phone calls or my conversations with the U.S. attorney's office, nor have I gotten anything from the regional administrator.

And, when you shove it off on the regional administrator and we get nothing, then I get these kinds of responses— and I told your staff that we were going to bring this up. Your staff was advised. I don't want you to think that I just sprung this on you; OK?

Will you respond then?

Mr. REILLY. Yes, sir; I will.

Senator D'AMATO. Will I get the opportunity of having a little— not a 2-minute shuffle off, you know, this is it, clink, thank you.

It's not right. That's not the way we talked prior to the regional administrator coming in.

Mr. REILLY. Well, let me, in his defense, say that I think he has given this a priority. He is, undoubtedly, specifically knowledgeable about it, more than any of the rest of us. I will talk to him at the conclusion of this meeting and we will both get back to you.

Senator D'AMATO. We spoke back in September about a Federal role and the Federal Government and the U.S. attorney undertaking litigation with respect to that. Now, you sit like you heard this for the first time.

Well, it may be. I remember that I said many things in the past that I may not have total recall. So I'm not suggesting that you have total recall about this. But this has a history with some specificity and I still haven't gotten a response.

Mr. REILLY. Well, I don't know that we have had any contact at all with the U.S. attorney. There's several threads to this that obviously we've got to get to the bottom of. And I won't forget this conversation. [Laughter.]

Let me follow up on it.

Senator D'AMATO. Thank you, Madam Chairman.

Senator MIKULSKI. Don't you find this hearing memorable?

Mr. REILLY. Well, it's fascinating. And certainly it raises the—it has the effect of giving us——

Senator D'AMATO. Consciousness level?

Mr. REILLY [CONTINUING]. The priority concerns that obviously you intend us to have.

Senator D'AMATO. Here's a bill that Senator Moynihan and I have in. It's looking for $100 million. I'd like to bring that up with you. Let me suggest that you look at that and maybe you can have your staff indicate whether or not you can be supportive of that. You know, there are other things that we're leading to. You can call this the $100 million meeting we had.

Thank you.

Senator MIKULSKI. Is that from our subcommittee?

Senator D'AMATO. We'll take it in little pieces, Madam Chairman.

Senator MIKULSKI. Well, Senator D'Amato, do you have anything else you want to say?

Senator D'AMATO. No. [Laughter.]

Well, I want to say this, for the benefit of the Chair and Mr. Reilly.

Maybe I came down on you a little hard but I think I've been very patient. And when I have a history that I don't even get a call from the regional administrator that you all said, "Oh, please, he's going to work with you," et cetera.

And then I speak to the U.S. attorney and he says, "You know, Senator, I think we have a role here but I can't get a sign-off from the EPA folk," that's a fact.

And I say to him, "Well, you don't even need them really." But I guess he doesn't want to just plunge in there without you.

That's the kind of thing that bothers me. Now, here we are 6 months later. And, while we had this conference, you'd almost say—you know, that didn't come by way of yourselves. That come by our pushing—Senator Moynihan, Congressman Walsh and myself, and the legislation and the $500,000 that we did appropriate in this committee. So, you know, don't give me that answer or EPA response. That's really been a congressional response that has brought us to this point.

I want to know what's going on—what you plan on doing, what you plan on supporting and whether or not you should or shouldn't be supporting a lawsuit there.

Mr. **Reilly**. Well, you'll get it all. I'll make sure of that.

Senator D'**Amato**. Good; thank you.

Thank you Madam Chair.

[The information follows:]

LAKE ONONDAGA

The State of New York filed an action against Allied-Signal,Inc. in June 1989, seeking remediation of lake contamination and natural resource damages. The State has also issued two Administrative Orders on Consent to Allied, one in 1987 and one in 1989, concerning related Allied operations in the southwest area of the lake. A third proposed consent order has been signed by Allied and, subject to completion of public comment procedures, should be finalized by New York.

In addition, New York negotiated a third-party agreement in December 1989 with LCP Chemicals, a corporation that purchased one of Allied's operations in 1979. This agreement obligated LCP Chemicals to contribute to the funding of a remedial investigation/feasibility study for lake contamination.

EPA is monitoring the State's progress to determine whether or not there is a need for Federal action. In this regard, on December 13, 1989, the State requested that EPA not commence Federal enforcement action since such action would be neither necessary nor beneficial in light of New York's ongoing enforcement actions. EPA will continue its monitoring of these ongoing State actions.

Under our delegation agreement for the NPDES program, primary responsibility for issuing and enforcing NPDES permits to municipalities and industries rests with the New York State Department of Environmental Conservation. In its oversight capacity, EPA meets with the State quarterly to discuss permittees in Significant Non-Compliance. Where the State has failed to take timely and appropriate enforcement action, EPA can initiate direct action.

EPA has not yet delegated authority for the pretreatment program to New York State. Therefore EPA has primary responsibility for this program. On September 28, 1989, EPA issued an administrative order against Onondaga County for its failure to implement its EPA-approved Industrial Pretreatment Program.

The Environmental Protection Agency, since its inception, has been involved in efforts to restore Lake Onondaga under the Clean Water Act. EPA has provided funding for development of a water quality management plan for the area through Section 208 grants in 1976 and 1980. Since 1983, EPA has provided funding to the New York Department of Environmental Conservation for activities in the Onondaga area under the Clean Water Act Section 106 and 205(j) grant programs. To date, EPA has provided, through New York State, about $552,000 in Section 205(j) and Section 106 grants towards a total estimated $1.4 million for the development of specific recommendations for implementing a preliminary lake and watershed management plan. The State has recently applied for a grant of $500,000 under the Clean Water Act Section 314 to support a Management Conference for Lake Onondaga. This application is currently under review.

Senator **Mikulski**. Thank you, Senator D'Amato.

Mr. Reilly, I have more questions that I'd like to go into and actually the first two sets would be to talk about global climate, then I'd like to come to some Maryland issues that, I think, have national implications.

GLOBAL CLIMATE

Mr. Reilly, on the global climate issue, you identified that as one of the major risk areas. And I salute you on that because, when one reads about it in the newspaper and all, global climate sounds so esoteric; it sounds so removed. No one gets a sense of what that means.

And yet, you and I know that it has tremendous implications in terms of people and their day-to-day lives. Global climate could mean the rise of sea levels, tremendous impact in coastal areas—east, west and tributary areas; just a sea level rise in the Chesapeake Bay or Ocean City could be significant. The impact on agriculture could be significant in terms of our own agricultural productivity.

Then, the public health issue of skin cancer, the issue that the hotter the planet, the more we want to use air conditioning. Air conditioning means we get into a greater energy consumption. Greater energy consumption of certain kinds of fuels then causes global warming. So, global warming is not an abstract issue that's only talked about in international conferences. It really goes to the heart and soul of a lot of America's productivity.

BUDGET FOR GLOBAL CLIMATE CHANGE

So I am supportive of it. And yet, when we look at the budget, we find that the budget for global warming policy research is down from $12 million to $9 million, which is a cut of 25 percent. Could you comment on why there's that reduction in that when we know that right now we need good science to do good policy?

Mr. REILLY. Well, first of all, the budget for the Agency on global climate change overall, including the research and the other activities in the Office of Air and the rest, is going up. It's going up to $43 million from $36 million currently.

Apropos of the policy——

Senator MIKULSKI. Did you say air? Outdoor air is going up; indoor air is——

Mr. REILLY. No; I'm talking about that aspect of those activities directed toward climate change, either research or policy, in the four elements of the agency that address the climate problem. So, overall, it's going up.

The reason for the dropoff in the OPPE portion of that, which is directed toward policy, is largely the completion of two of the major, congressionally directed studies that we have had underway for the last couple of years—one with respect to the effects of climate change and the other, the stabilization report, that looked at ways to stabilize the buildup of greenhouse gases in the atmosphere.

One of the reports from those studies is done; the other is almost completed; it's not yet final. But, as the funding for those winds down, we simply will require less in the way of financial support for the policy work that we're undertaking, though we are continuing to do policy work in that office and to engage the other agencies in this government, and in other governments, on mitigation strategies, on looking at implementation options, on various alternative costing and economic impact assessments for climate change response.

There is a great deal still going on in that office. It simply is not of the same order of magnitude as those two reports.

EPA OFFICES DEALING WITH GLOBAL CLIMATE

Senator MIKULSKI. You said there are four segments within your Agency that are dealing with global climate. Could you just go one, two, three, four, and say where they are in terms of your budget, so that the record is clear.

Mr. REILLY. Well, the Office of Policy and Planning Evaluation is—I think that's down, as you suggested, from $12 to $9 million. That's the one that will have the overarching policy concerns and takes the lead on our response to the climate change problem.

Our Air Office has a concern with specific aspects of climate change particularly methane and ways to reduce the generation of methane from livestock. It also is taking the lead on chlorofluorocarbon and our role in the Montreal Protocol renegotiation this summer.

The International Activities Office is the principal entity with which we interface with other agencies of the Government and other governments on climate change, whether for conferences, for preparing our positions and the like. And, as you know, we have enhanced that Office, increased its size and, for the first time, gotten the Presidential appointment for the Assistant Administrator for that Office.

The budget for research and development is increasing some $10 million this year in climate change research support. It's looking at near coastal ecosystem impacts, impacts on species, on fish, for example, and trying also to characterize emissions of greenhouse gases and get some sense of natural emissions, where they're coming from and what the regional models and monitoring show about climate change.

So it's a relatively comprehensive group of things that the Agency is doing with respect to climate change. As you know, it is a relatively small part of a much larger picture that is represented by more than $1 billion—a substantial amount of that in the NASA budget—that the President has proposed go to climate change work in the coming budget.

EPA, NASA, AND NSF LINK

Senator MIKULSKI. Well, Mr. Reilly, that takes me then to the synergistic link between EPA, NASA, and the National Science Foundation. I think executive and legislative branches believe we must use our money smarter and multiply our effects.

Could you tell me what steps or plans does EPA have, or what are the mechanisms for these three agencies to be working on this issue of global warming?

Mr. **Reilly**. Well, we are all part of the committee on Earth Sciences, chaired by Dallas Peck, Director of the U.S. Geological Survey. That Committee has done something, I think, that is remarkable, possibly unprecedented at the Federal level. And that is to develop a highly integrated strategy for the conduct of research and for the allocation of responsibilities among the Energy Department, the Interior Department, the EPA, NSF, NASA, and the rest.

It produced a report that the President proudly distributed to the Economic Summit partners in Paris last summer. That is how we determine what it is we're going to do. Our budget is very closely coordinated through OMB, with the priorities and the plans that are developed by that Committee. And I think that's worked very well.

Senator **Mikulski**. Well, we think it has also. We had a special hearing with the President's Science Advisor, Dr. Bromley, to get a picture of where he saw it heading.

It's going to be our intention to really use that as the guidebook for using what we do here. At the same time, we're looking though at the funding of science—research and even in some management strategies.

WORK FORCE ISSUE

The other issue that continually emerges is the work force issue. Where are we going to get our scientists for the 21st century? And, somehow or another, that's often looked at as part of the skimpy little funding over there at the National Science Foundation.

I'm particularly heartened by the kind of leadership provided by Admiral Watkins over at Department of Energy to get people involved. We've got some of this at NASA, aAnd I use global change, Mission to Planet Earth, a lot of the exciting things that are going on right in your own Agency as examples.

What do you see as the role of EPA and where can we find, in their the budget or your leadership, a catalytic effort to spur more young people into being interested in a science and environmental education. And I know, too, last year we talked about women, people of color participating, having jobs. And this is where it's got to begin.

Could you share this with us?

Mr. **Reilly**. I agree with you. I think that's a very serious problem. We're looking at the same numbers that you are and the concern Admiral Watkins is having in relation to the need and the apparent shortfall that we're going to have, a very serious one, that will affect the whole society; it will affect EPA. We're a largely technical and scientific staff and looking for ways to make our contribution to all parts of the educational formation of scientists.

We have increased—something I would mention particularly—increased the amount of support that we're giving for grants to academic institutions, and research institutions. Extramural contracts in the research budget are very substantial this year, for a number of reasons. One is to foster the kinds of relationships among the scientific establishment that we need to have both on a higher level than EPA has had before, and also with perhaps a more consistent expectation. We want researchers and scientists who go into environmental sciences to look at a relationship with this Agency, and expect that they will continue to be able to have it, that there will be contract support, and research moneys to do the kinds of things that we cannot do for ourselves and very much need them to do.

MINORITY HIRING

We have also given a good deal of attention to the minority hiring issue and have entered into contracts with a number of the historically black colleges, have tried to develop internship programs, have supported the grants for technical equipment—laboratory facilities, things of that sort—and have hoped thereby to get both the faculties and, perhaps more important, their students in those universities to think of the environment and think of EPA as a place that they might like to consider for a career.

ENVIRONMENTAL EDUCATIONAL ACTIVITIES

We're working also with Admiral Watkins on his initiative, looking for ways in our own laboratories and in our environmental educational activities. We're looking forward to having a larger role. I think it's completely consistent with Cabinet status that we would become more involved in environmental education that would allow us to be more active with the educational community on which we really do draw.

Senator **Mikulski**. Well, Mr. Reilly, this is so near and dear to me and to the future of the country, I could spend the rest of the hearing talking about this. I'd really like, if you would, for you to submit to us essentially your direction. You might not have a specific plan yet, but what your goals are and some of the concrete steps that you're taking to stimulate this, and then also what your budgetary needs would be.

UPGRADING OF LABORATORIES

Just 2 days ago, we had a group of students at Morgan University, a very fine historically black college in which several hundred kids are sitting in at the auditorium. They're not sitting in for freedom; they're not sitting in to raise their grade point average and so on. They're sitting in to make sure that that university meets the expectations that they had.

They talked about dormitories where paint is peeling. They talked about laboratories that are out of date and underfunded, the need for instrumentation. In some instances, they talked about the issue of safety. They talked about Student aid and they talked about teachers.

Now, I don't know the validity of all their claims but I do know the validity of some of their claims, which is the academic, even physical, infrastructure. And some of the leaders of the student protest—because they were protecting their own opportunity—were in science and engineering. One of the more eloquent students was an engineering student who said, "I came to Morgan because I want to be an engineer. I'm going to get an education and then I'm going to give back."

Well, that's what we're all about here. So I really look forward to working with you. And I know the President's committed to these kinds of things. And this is just so important.

Mr. **Reilly**. Let me add something to that, Senator. I totally agree with that.

One of the things that I learned in the course of a visit to one of our labs this past year is of the very serious needs that we at the Agency have for new laboratory equipment, for upgrading our various scientific instruments, and of the demoralizing effect that out-of-date instrumentation and facilities can have on scientists—on retaining them, on recruiting them, on keeping them effective.

We have included in this budget, I think $8 million, something in that range, to begin to upgrade these facilities. Our needs are somewhere in the range of $90 million over a 4-year period ending in 1995. I very much hope that we can get the support that I think it needs. It's really vital to the scientific underpinnings that we want to maintain strong and really strengthen at the Agency, as we go forward.

Also, since those facilities very often are the places where we bring in a lot of the new young scientists as interns, as students, as postdoctoral candidates, it is important to the training mission and toward building this core from the ground up. So I hope that will be supported.

PLAN TO UPGRADE

Senator **Mikulski**. What I would really ask you to do—and I will be making an official request of Erich Bloch to coordinate this—is for the agencies that are interested in the instrumentation upgrading develop a national strategic plan on instrumentation upgrading.

You would play a role; Watkins would play a role; Erich Bloch plays a role. I'm going to ask him to get together people from the agencies where we could have essentially an instrumentation plan, not necessarily to get in—we're not building buildings here or empires, but upgraded material.

And, just to finish this point, I was over at Hopkins the other day, and I'm very interested in undergraduate education. Everybody's always interested in postdoctoral. I'm interested in biology 102 and physics 303, because that's where we hold onto our folks.

The point that I'm making is that, through the National Science Foundation, Hopkins got some pretty pricey equipment, in physics. Dr. Cal Walker, the brilliant chairman of their physics department said to, essentially, senior faculty. "If you want to use this equipment"—and they were dying to use this new equipment—"you have to then develop some concrete projects within the department for undergraduate education."

Initially, it was that incentive. Now, the faculty is—senior faculty is thinking about a whole new interaction at Hopkins for this. Wouldn't it be great if it was going on at Morehouse and Morgan and Goucher and Wellesley and the public universities.

So that's the kind of thing that we're looking for. I think if we use our money smarter, we could do this.

Mr. REILLY. I agree with you.

CHESAPEAKE BAY

Senator MIKULSKI. So, Mr. Reilly, let me go on, —because I know the time is getting late—Governor Schaeffer is coming to talk to the Maryland congressional delegation. I need to present my report at that. And, of course, in addition to talking to Governor Schaeffer, one of the things that I know he has talked with you about—and I want to talk with you about—is the Chesapeake Bay and nontidal wetlands.

As you know, Maryland has been in the forefront, particularly Senator Mathias, and then Governor Hughes, when the bay broke. Let me tell you what I'm concerned about with the bay program. First, on the funding of nonpoint source—and, again, nobody understands that but everybody likes to point to a big dirty and say, "There they are; there go those polluters." But, as you and I know, every day, as Rachel Carson says, there's the silent springs moving into the bay, or the Great Lakes, or whatever.

NONPOINT SOURCE FUNDING

I note that we've cut the funding for nonpoint source funding. Could you comment then, as you want to clean up so much of the waterways, the environmental degradation and so on, why did we cut nonpoint source grants when it's one of the biggest polluters, or the biggest source of pollution, as Bob Kerrey said. Could you comment on that?

Mr. REILLY. You characterize it very well. I think we've learned that nonpoint source pollution represents half, in many cases significantly more than half of the pollution that is reaching the lakes from the country. It comes from runoff, from nonpoint sources. We respect that and are working with the States to try to improve the way that they manage these resources.

We're doing it not just, I might say, in the nonpoint source program but in ways that involve cooperation with the Agriculture Department and some of its programs, particularly the new conservation reserve commitment, the substantial increase in acreage that is proposed in the farm bill to address that, which we hope will target wetlands and other areas that adjoin rivers and lakes and can prevent nonpoint source problems.

The kinds of things that one has to do to effectively address nonpoint source pollution very often involve land-use management, planning, zoning, regulation of one sort or another, which obviously is not, nor proposed to be, a Federal function. Some of the most effective programs that we have seen, many in the Susquehanna watershed, I might add, that we have really identified, I think, largely in response to the concern for the Chesapeake Bay and the Chesapeake Bay program targeting those efforts, those problems, we see those as primarily state and local responsibilities.

We want to help them get started. I think we've done that with the appropriation we had last year. And there had been, for those reasons, a traditional resistance on the part of Administrations, not just this one, to providing money for nonpoint source pollution control.

In that sense, I think you might look at this $14 million proposal request as something of a breakthrough, as a change in attitudes with respect to that problem, and a——

Senator MIKULSKI. Keep on talking; you've got to convince me. [Laughter.]

You go from $39 million to $14 million and call it a breakthrough?

Mr. REILLY. Well, it's up from nothing in terms of requests last year. So that's something.

I agree it's a serious problem. And I think that—I think we're on the right track with respect to nonpoint source pollution. And we're looking for the priority projects. We're hoping to spread information about them to other jurisdictions. And I think that money will help us make a start toward that.

NONPOINT SOURCE GRANTS

Senator MIKULSKI. Well, first of all, I agree that issues like land-use planning and zoning are always the prerogative of State and local governments, and we would support that. However, GAO tells me that the nonpoint source pollution is the primary cause of pollution in surface waters and we are talking about a 60-percent reduction.

Do all States receive nonpoint grants, even if they do not have fully approved management plans? Are you going to do good-guy bonuses where we put in things, like critical areas management, which was very important, and—and I might say we paid a big price for that in Maryland.

Will there be good-guy bonuses when you award your grants?

Mr. REILLY. Well, we won't, obviously with these levels of support, be able to provide funds to every State. Though, I should add, that we have more support than is represented by the $14 million. The State water quality grants, which are going up this year, provide another increase of $16 million. Those are also available to support innovative and particularly leadership-type nonpoint source programs.

Senator MIKULSKI. So what you're saying, you're going to try to give these, what we call good-guy——

Mr. REILLY. We'll recognize the good ones, the promising ones, which, with those resources, is all we can do.

Senator MIKULSKI. Which then, hopefully, enables a Governor or a Speaker of the House or a President of the Senate to go back to their legislature and say, "Let's come in with this, because this is the way to get the funds"?

Mr. REILLY. Uh-huh.

CHESAPEAKE BAY BUDGET

Senator MIKULSKI. Let's turn to the funding of the Chesapeake Bay. We understand, in the research budget, that you've cut out about $0.5 million. And that is in primarily, I believe, the bay toxic area.

And we also understand that, according to the University of Maryland's Director of Toxocology, of the money that was appropriated in fiscal year 1989 none went into bay area research organizations. That some of this is going to be done in Oregon?

Mr. **Reilly**. Let me first comment on the overall funding for the bay. I have personally devoted a great deal of attention to the bay in the time that I've had in the past year, with several meetings, and then finally assuming the chairmanship of the Commission.

The first point I would make is that the $13 million, a little less than that, is in the Chesapeake Bay program, per se, represents a pretty small part of the amount of funding that goes to manage the environment, and particularly water problems for the bay watershed. As I recall, that number is in the range of $180 to $190 million from several agencies, for wasterwater construction grants, water pollution control, water policy management grants, and agricultural activities as well.

And those have had some real effect. And I think they have been better coordinated, better directed, as a consequence of the Chesapeake Bay program. I think it's one of our real success stories.

COMPLETION OF STUDIES

The falloff in support, as I understand it, is largely a consequence of having completed some work, some studies, that we had underway that are no longer in progress.

Is that right, LaJuana? Could I ask you to—the Oregon issue is not one that I'm familiar with.

Senator **Mikulski**. Would you like to comment? Because there was a group of scientists who organized essentially their own meeting and talked about how one of the bigger challenges in the bay was toxics and then even had talked about a significantly larger appropriation in this particular area.

It is true. Some of the studies have been done. Studies were not meant to go on in perpetuity. These are not longitudinal studies of the bay; they're meant to be studies to resolve problems. But we understand that it was in the toxic research that this was really important, No. 1.

No. 2, when the grants were being awarded, they were not being awarded to research organizations in the bay that have institutional memory, expertise, slides that go back that they collected for other reasons, all those things, you know how a researcher is.

Ms. **Wilcher**. Well, specifically, with regard to the decreases—you're talking about $477,000 decrease?

Senator **Mikulski**. Yes.

Ms. **Wilcher**. OK. That is a decrease as a result of completing work on some nonpoint source project grants the Patuxent River cleanup study, and the Rock Creek study, which is expected to come out of OMB today.

Senator **Mikulski**. We didn't provide any money for those studies.

Ms. **Wilcher**. But that—those are the decreases that we have been spending the money on and that's where about $30,000 of the $477,000 is coming from. That, in addition to the completion of some nonpoint source project grants.

But we are, in fact, adding two FTE's to be looking at the toxic reduction strategy and reevaluating through the Chesapeake Bay program—the toxics control strategy that's there, monitoring what additional things need to be done in that area.

Senator **Mikulski**. First, let me say this, it is absolutely—we feel it is absolutely crucial—when I say "we," I'm really speaking for what the scientific community said—to a handle on the bxic issue. How that's going to be done, because there seems to be confusion here in what you're saying. But bay toxics, I believe you're saying, you want to be a priority; is this right?

Mr. **Reilly**. Yes; it is.

BAY AREA RESEARCH ORGANIZATION

Senator **Mikulski**. And then, therefore, where the funding will occur. And then the other is, not only where the funding will occur in the budget or the amount, but then where are you going to do it? And I'm only telling you—and this is what we were told and, again, this is not official memos and so on—that none of the $750,000 appropriated went to bay area research organizations. They're concerned that they won't get a part of the spending that's going on in fiscal 1990. They feel that they have the expertise and the institutional memory.

Ms. **Wilcher**. That is something I'm unaware of. We can check into it and respond.

Senator **Mikulski**. Would you, please? I mean, that is not a pork barrel question. I think it's really then how we make sure we use our resources most effectively. I'm going to talk about Pautexent and Rock Creek here, because again there seems to be confusion about the report and the way it was paid for.

[The information follows:]

Bay Area Toxic Studies

The Agency spent the FY 1989 Congressional add-on of $750,000 for toxic studies in the Chesapeake Bay among the following organizations:

	Amount	Percent
Fiscal year 1989:		
Bay area research institutions	$156,000	21
Bay States, including the Washington Area Council of Governments	290,000	38
Bay area contractors	147,000	20
EPA laboratories	106,000	15
Overrun contingency	51,000	6
Total funding	750,000	100
Fiscal year 1990:		
Bay area research institutions	675,000	61
Bay States, including the Washington Area Council of Governments	380,000	35
Overrun contingency	45,000	4
Total funding	1,100,000	100

Total funding from the Bay program to the Bay area research institutios for monitoring, research, and related activities, including the above toxics studies, totaled almost $1.5 million in FY 1989 and is expected to be over $2.1 million in FY 1990.

The toxics program priorities were established by a Blue Ribbon Panel, an independent panel appointed by the Chesapeake Executive Council. The panel was asked to recommend the immediate priorities for implementing the Basinwide Toxics Reduction Strategy. This strategy included the tosics research plan.

The priorities of the panel have been implemented in the FY 1989 and FY 1990 programs. They included development of the basinwide toxics loading inventory and the basinwide pesticide use survey. The panel also wanted to intiate prevention and minimization activities, so they selected an integrated past management program to take an active step against the development of future toxics problems.

NONTIDAL WETLANDS

Senator MIKULSKI. Let's go to nontidal wetlands. Mr. Reilly, I know that Governor Schaeffer and Speaker of the House Clay Mitchell visited you about nontidal wetlands. We know that you've got a big job in implementing nontidal wetland legislation. One of the issues that has come up in Maryland is how wet does land have to be to be considered a nontidal wetland?

And I've heard from the same people on the Eastern Shore that you've heard from, and so on. I think the spirit of Maryland is, very definitely, to protect nontidal wetlands. They're not asking either for you to abdicate your responsibility or us to abdicate the Maryland law.

What they did ask for was a high-level person out of your headquarters to really come, almost on an ambassadorial level, to take a look at the Maryland situation. For example, Senator Malkus was here from Dorchester County. And he would show you that map. They're concerned that all of Dorchester County could be declared a nontidal wetland. The construction of a jail was held up. In the eastern area of Talbot County there is a problem because of the definition.

As you know, there is confusion; there is fear; there is the exacerbation of fear by some who would like to kill all nontidal legislation and so on. And we need a plan to manage nontidal wetlands, as well as to manage the confusion over nontidal wetlands. And I wonder if—I sent you a letter, 2 weeks ago, so we're not—[laughter].

Mr. REILLY. I'm glad it wasn't a phone call. [Laughter.]

Senator MIKULSKI. And I wonder what your response would be, one, to the letter, and to Governor Schaeffer's request on assigning this person, essentially to work on sensible solutions to this very concrete problem, where we know the role of nontidal wetlands. And, without going through every detail, but of those saying, "Can I build a shed?"

Two, can we build the interconnector highways in Montgomery County, so we're not only talking about agriculture. Then we're concerned that the Corps of Engineers could get so bogged down, almost with de minimis requests, that they can't administer. A program that doesn't have confidence and cannot be administered, will not be implemented.

Mr. REILLY. Well, let me respond to this by going back about a year to a time when the Governor and the Speaker visited me in Washington and talked about the nontidal wetlands bill that, then, the Governor was supporting and which he hoped the Speaker would get involved too. We, I think, had an excellent meeting of the minds. And I was able, at that time, to reassure the Speaker about some of the consequences of the States going down that road in collaboration, in close partnership, with EPA, which is the way we've got to address these problems.

HYDRIC SOILS

Then, later, they became familiar with a new delineation manual that defined nontidal wetlands to include hydric soils. And they ran the analysis of hydric soils and discovered, as you suggested, that Talbot County and Dorchester County and any number of others, include very large amounts of hydric soils. In some cases I think more than half their surface area qualified as these soils.

So they became very concerned. And, I think, felt that they had been perhaps misled, to some degree. I appreciate that problem. And let me say that we are committed—and particularly because of that personal history I have with it—I am very concerned to make sure that—the States' leadership in this area works for them, effectively and efficiently, and they are reassured and that the landowners are reassured about how we're going to administer our responsibilities.

There is some misunderstanding in all of this. Hydric soils do not, in and of themselves, result in the jurisdiction for permit purposes of EPA or the State to new development, to alteration. We define wetlands subject to our jurisdiction to include hydric soils and periodic inundation and the presence of certain kinds of vegetation associated with wetlands—really all three of them.

If you apply all three, that problem becomes far less serious and the areas subject to potential jurisdiction much smaller than otherwise it might seem. I think they need to understand that. Perhaps we need to work in the mapping and classification of land with them.

We also probably have to work with the Corps and others to get some general permits, authority to make clear that certain kinds of construction, development, and subdivision, at certain scales will simply not require the extensive review and permitting that's associated with dredge and fill of productive, fertile wetlands that we all want to protect.

DESIGNATION OF LIAISON

I think we can do that. The proposal that I should designate somebody at a high level to work with the State is perfectly reasonable. I want to do that and the person I would propose is Ted Erickson, who is our Regional Administrator. All of these issues are addressed through our regional offices at EPA. They are the people who have the wetlands permitting authority and the action for this. He is the top person in the region.

I've talked to him about it and he is prepared to give a substantial amount of time to making sure that this program is begun and implemented effectively and that the people who are concerned about it are reassured.

Senator **Mikulski**. Let me say a couple of things in response to that, Mr. Reilly.

First, you're right. There is confusion about the criteria and so on. That's not going to be solved at this hearing. That's exactly why we need someone absolutely on the ground, because of the complexity that you've outlined. That's No. 1.

No. 2, I'd like to just say complimentary things about Mr. Erickson. He is a very competent Regional III Administrator. He not only is committed to environment but he himself comes from local government. My associations with Mr. Erickson have been just sterling quality.

The concern—and I'm not in a position to reject your recommendation—but I can tell you what the local and State legislators feel. It is not a rejection of Mr. Erickson. They feel that at EPA, as in many Government agencies, there are so many layers, upon layers, upon layers to get through, they really want the person that talks to you at least three times a week so that, when an agreement's made, there's not the General Counsel to go through and the coordinator of the whatevers and so on.

That's why they were talking about someone out of headquarters. It in no way is meant to diminish or negate the very fine work of Mr. Erickson. His predecessor was good, Seif. We didn't think we could do better. I'd say we've done as well, and the local government experience is even better.

Mr. REILLY. I'm pleased to hear you say that. I agree.

Senator MIKULSKI. I just want to emphasize that relationship, so please don't misunderstand. It's not him. It's within the very nature of the bureaucratic pipeline. They're concerned that after Erickson comes out, does all these good things, that when it comes time to come to an understanding, that there's going to be seven more levels to go through.

Mr. REILLY. Fair enough.

Senator MIKULSKI. So I'd like you to rethink that. And it might be someone along with Mr. Erickson. Would you do that?

Mr. REILLY. Yes.

Senator MIKULSKI. Please understand the rationale behind it.

Mr. REILLY. I completely appreciate that. And the only thing I would say is that this has had more attention at the top of the Agency, I think, than the wetlands issue in virtually any other State. And we are committed to working with Maryland. We have terrific respect for their having gone down that road and the Speaker's having taken the leadership on it with the Governor. And we'll help them.

Senator MIKULSKI. Well, the good news is that Maryland has so many waterways in it—its rivers, its tributaries—that in and of itself, from western Maryland, the Susquehanna, is why the bay is so dynamic. We know that you've given a lot of attention to it and we appreciate it.

We also want to acknowledge that the Corps of Engineers, Fish and Wildlife, local government, and ourselves have signed a memorandum of agreement on some of the initial phases of this without again going through every detail, there has been cooperation. A large part of the problem resolution initially was resolved because of the quality of the person you had at region III level. So I'm going to emphasize that.

PATUXENT AND ROCK CREEK REPORTS

As to the Patuxent and Rock Creek reports, two things that I just want to say—because I know our friend and colleague from Vermont is here—one, these were reports that we wanted. I don't think we appropriated money. We don't see that that was $478,000.

Ms. **Wilcher**. We took the money out of our base to do those reports.

Senator **Mikulski**. Well, if you spent $478,000 on the two reports, that's very interesting to me. I didn't get them when they were due. I asked for Rock Creek on December 15, 1989, and we don't have that yet. We asked for the Patuxent on January 1; that's not done. I found out about the initial report on Patuxent by going to talk to southern Maryland legislators as part of my State visitations, who then told me that they knew about the Patuxent report and what the draft was going to say; I didn't.

In the course of that, essentially I found that the Patuxent report is not so much a report on the Patuxent River as a commentary that we didn't have the authority to do a demonstration area. Why you would have to spend several hundred thousand dollars to tell me that in a report that's late, I really don't understand.

Ms. **Wilcher**. Part of that $477,000 went for those two reports and the other was for nonpoint source grant funding.

Senator **Mikulski**. Oh, so it wasn't $478,000?

Ms. **Wilcher**. It was for those two things—the reports and the grant funding.

Senator **Mikulski**. Well, when can I expect these reports?

Ms. **Wilcher**. The first one, the Patuxent one, should have been transmitted already because it has been completed. The Rock Creek report is expected to come out of OMB today, so we expect that it should be here very shortly. Submission of the Patuxent River study for OMB review is expected by March 15, 1990.

Senator **Mikulski**. We don't have them.

Ms. **Wilcher**. They should be here very shortly.

Senator **Mikulski**. Well, maybe you can put them in the same package you're sending to D'Amato. [Laughter.]

OPENING REMARKS OF SENATOR LEAHY

With that, we'll turn it over to the maple leaf Senator, one of the Green Mountain Boys, our friend, Senator Leahy from Vermont.

Senator **Leahy**. Madam Chair, thank you very much. I have a feeling I probably missed an excellent hearing here. Unfortunately, we've had the Defense Appropriation Subcommittee meeting, the Judiciary Committee meeting, Agriculture Committee meeting, and I've been several different places.

LAKE CHAMPLAIN LEGISLATION

I might say, Madam Chair, listening to you and Mr. Reilly talking about the Chesapeake Bay kind of leads into an area that I'm interested in. I have introduced a bill called the Lake Champlain Special Designation Act, which I'm sure you're aware of. It is a bipartisan piece of legislation. Jim Jeffords, Pat Moynihan, Al

D'Amato, and I are all on it, as the two States that are affected or border Lake Champlain.

It is going to be a major pollution prevention program for Lake Champlain. I don't need to tell anybody who's ever been up there what a beautiful lake that is and what a magnificent piece of water, historic lake. A lot of the Revolutionary War was fought there, critical battles of the Revolutionary War, a major part of the discovery of the northern part of the United States.

Whatever we do in that lake, I think, can serve as a model for a water pollution prevention program throughout the Nation. I would hope that, in your Agency, you'd be able to look closely at that bill and I hope that you'll be able to support the major water pollution parts of the bill.

Mr. **Reilly**. Well, we will certainly look at it closely, Senator. We are expecting a request for some support for Lake Champlain, apart from that legislation, sometime this month and we'll be prepared to take that seriously as well.

Senator **Leahy**. Well, I would like to meet with you and work closely with you on that. Again, as I say, this is something that has both Republicans and Democrats working closely together. I think we can do it.

I know that you—in your opening statement, you speak of pollution prevention and critical habitats. Of course both of those are areas addressed by it.

My other concern—I'm sure we've had discussions already of global warming and I will pass on that or submit that for the record—I am concerned—I am wearing two hats, one as a member of this subcommittee and the other as chairman of the Senate Agriculture, Nutrition, and Forestry Committee. And that's on the question of FIFRA.

FIFRA REREGISTRATION

And we were able to get through legislation in 1988 to establish funding and priorities for your own work, or your Agency's work on FIFRA—deadlines on reregistration. We had before that, a number of these poisonous chemicals, carcinogens that couldn't be reregistered, probably not in my lifetime, at the rate they were going.

I want to make sure that you are on that yourself. I mean, that you are able to have some personal input into the personnel in the area of FIFRA. Is this an area that's come to your attention?

Mr. **Reilly**. Yes, sir; it has. I think it's going well. We have published the lists of more than 1,000 active ingredients. The reregistration process has weeded out a very large number—some thousands—of pesticides registrations, which companies chose not to support. I believe we expect to adhere to the schedule.

As you know, we are proposing to strengthen the law in several respects that will help us avoid some of the problems that we ran into with the alar cancellations last year, and help us act much more expeditiously, when we discover we've got a problem pesticide, to get it out of commerce.

Senator **Leahy**. If you'd follow all the urgings that you get from Congress on the things that should have your personal attention, you could do that easily in any 40-hour day, as along as you use those 40-hour days in a 9-day week. But this is one that—this whole pesticide thing, we're going to be having more involvement in the Agriculture Committee.

There will be more involvement of all the other committees that are involved in it, plus just the public attitude itself. People are concerned about whether they have safe food and that is going to become more and more of a broad concern. I have a great deal of respect for your competence and your judgment. And to the extent that you're able to give some personal attention to who's going to go in there and how your computer program is set up and all, I'd feel a lot more comfortable.

Mr. **Reilly**. All right. I appreciate that.

Senator **Leahy**. Now, on Lake Champlain——

NATIONAL PESTICIDE SURVEY

Mr. **Reilly**. I might just add to that, the national pesticide survey, which I know you're aware of, is moving along. We will expect to complete that within the year. I think that will add quite a lot to our knowledge about the relationship between pesticides and groundwater.

We've undertaken sampling in almost all the States, statistically collected information on both community and private wells that really will give the best picture we've ever had on the nature of the pesticide and groundwater problem. This will contribute to our understanding of the adequacy, or lack thereof, of the current program for groundwater and Federal policies. There are many Federal policies for groundwater and wells, and maybe this study could suggest something in the way of response to the pesticide in groundwater problem.

Senator **Leahy**. That's good news. Because, you know, in some parts of the country we have as much as 60 percent or 70 percent of the sources of groundwater with some contaminants in it. In rural America we have about 90 percent to 95 percent of the people who get their drinking from groundwater. So it's an extremely important issue. Certainly, among the health and safety issues in rural America, it has to rank up in the top half-dozen, easily.

LAKE CHAMPLAIN

Now, Lake Champlain, again I'm excited about what's happening in Lake Champlain. If EPA could get actively involved, if others can, I think what started out initially as something that we talked about as what we wished to do, we could actually do by the start of the next century, a little over 9 years from now. I think we can have a lake that can not only serve as model for the whole country but, I suspect, for a lot of parts of the world.

I thank you for your help and I thank you for your interest.

Mr. **Reilly**. Well, I once vacationed, when I was a little boy, at that lake. I don't know if it's still as clean as it was when I was there. But if it isn't, I hope we can help make it so.

Senator **Leahy**. It varies. You're welcome to come back anytime. We'll be happy to show you around the lake. Come to Vermont anytime except mud season.

We have four seasons in Vermont. The fourth is mud season. I'll close only with this, Madam Chair, it's happened——

Senator MIKULSKI. Did you say "mud"?

Senator LEAHY. Mud. It's during——

Senator MIKULSKI. I'll invite you during soft crab season; he can invite you during mud season. You decide where you want to go. [Laughter.]

Senator LEAHY. You'd be better off with soft crab. We have—I live on the end of 2 miles—about 2, 2½ miles of dirt road. And the story is told on that dirt road—during this mud Season, when everything really just does turn to mush, and you kind of walk down the edges of the road because you can't drive through it—a neighboring farmer went along, sees a hat just sitting in the middle of the road, recognizes his neighbor's hat and uses a stick, reaches out very carefully and picks up the hat. And lo and behold, his neighbor is under the hat.

And he says, "George, are you all right?"

And George says, "Ayah. But I'm worried about my horse." [Laughter.]

I'm sorry. I'll never do that again. I'm sorry. I owe your three proxies for that, Barbara.

Senator MIKULSKI. Why aren't your hearings as interesting as you make mine?

Any questions?

Senator LEAHY. I may have a couple for the record but I'll submit them.

Senator MIKULSKI. OK.

Senator Nickles?

Senator NICKLES. Madam Chairman, thank you.

Mr. Reilly, it's a pleasure for you to be before this Committee but also to work with you, as we did for too many hours, in the negotiations. Just for your information, I'm working on the administration amendment on permits. I hope that we'll be successful on that in the not-too-distant future.

OKLAHOMA CITY ATTAINMENT ISSUE

Let me ask you one question dealing with the clean air bill. Is it your understanding, or do you know whether or not Oklahoma City is presently designated as in attainment or nonattainment as far as carbon monoxide?

Mr. REILLY. It is my understanding that we are currently waiting for some final 1989 data which, we understand, are likely to result in Oklahoma City being designated in attainment for CO. I'm not certain that we will but that's our expectation.

Senator NICKLES. All right.

It's my understanding in the 1989 that they are and I'd like to get that resolved as quickly as possible. So, under the compromise bill that we now have working through it, I would like to see that Oklahoma City would be designated in attainment and not go through those provisions.

So, if you could assist us in that endeavor, I would be most grateful.

Mr. REILLY. I will do that, Senator, and get back to you on it.

[The information follows:]

OKLAHOMA CITY ATTAINMENT

Oklahoma City is classified as attainment for the National Ambient Air Quality Standards for carbon monoxide (CO) under section 107 of the current Clean Air Act. Oklahoma was asked to revise their state implementation plan for CO in May of 1988 based on violations of the CO ambient standards recorded in 1985, 1986, and 1987. Data for 1988 and preliminary data for 1989 have not shown any subsequent violations. Assuming no further violations are recorded and all data are found to be acceptable, Oklahoma City would likely be classified as an attainment area under the Senate Compromise on S. 1630. No new control measures specifically directed at CO sources would be required.

1989 DATA

Senator NICKLES. Do you have the 1989 data yet?

Mr. REILLY. We apparently do not have it.

Mr. Habicht. We're waiting for the last quarter of 1989. It's supposed to be in anytime now.

Mr. REILLY. The Deputy Administrator, Hank Habicht, is going to Oklahoma City for a groundwater conference in April. We will hope that by that time we will have an answer for you.

Senator NICKLES. Good. I appreciate that. And if you would stay in touch with us and let us know the results, and if there's anything we can assist by getting you information from our State sources, we're happy to do that.

EPA BUILDING

One additional question. I apologize; I missed your opening comments. Do you have in your submission the cost or the plans for the building?

Mr. REILLY. Not in this—no, not in this submission. I don't think we do. Because that authorization was already made—$350 million; is that what I recall?

Mr. HANLEY. Authorization is out of the public building fund.

Senator NICKLES. How is that going to be financed? Is that one of the lease operations where it's going to be paid over——

Mr. HANLEY. Senator, that's one of the issues that we're now discussing. It depends on a number of things, such as location and the method of acquisition.

Senator NICKLES. So you have an authorization for up to $350 million?

Mr. HANLEY. The General Services Administration, I believe, yes. Not us.

Senator NICKLES. GSA has what—OK'd but Congress has not appropriated it; is that correct?

Mr. HANLEY. I believe—it's an authorization to use it in the public building fund, which is a revolving fund arrangement. So it's not a new budget authority appropriation.

LOCATION OF EPA BUILDING

Senator NICKLES. Have you decided on a location yet?

Mr. REILLY. No, sir; we have not. That is something that we are in conversation about at the moment. In fact, I'm having breakfast with the Administrator of GSA in the morning to discuss a number of possibilities. The one that they have proposed to us is the Southeast Federal Center.

We have surveyed our own employees, considered our needs, considered the very serious problems we have in our own building which, you may know, is a sick building. It's got all sorts of indoor air pollution problems associated with it and a lot of other problems, just of rapid deterioration that really demoralized our people.

So we have a need to move quickly, as quickly as we possible can, to get out of it. We're going to be discussing this in the morning. There are two or three other sites around town of sufficient size and possible suitability that are interesting. And I would hope that we'll be able to take a very close look, particularly at them.

Senator **Nickles**. Well, I'll look forward to the recommendations, I guess, that come from your office as well as that from GSA. And we'll go from there.

Mr. **Reilly**. I appreciate very much your interest in the building. I think it's a big issue for our Agency, both for the effectiveness, efficiency of our people who are now spread into several buildings, both in Virginia and in the District. It's obviously symbolically significant. It represents a major statement about the country's orientation toward the environment and appropriate facilities that EPA will inhabit. And I hope you'll continue to follow it.

Senator **Nickles**. Well, I'm sure I will.

I also have one additional question. I'll just submit this to you in writing but it deals with the Clean Lakes Program and some applications that are pending. I'd just like to be brought up to date what the status is on those.

Mr. **Reilly**. All right.

Senator **Nickles**. And thank you very much.

Madam Chairman, thank you.

Senator **Mikulski**. Thank you, Senator Nickles.

INDOOR AIR PROBLEM AT EPA HEADQUARTERS

I'd like to pick up on the EPA Building, as a matter of fact. Of course we think EPA does need a new building and will be working with you on that. But of course we continue to get constituent complaints about the indoor air problem at your current headquarters.

They refer to some of the problems as the toxic carpet, which seems to present very severe problems, and talk about the poor air quality. I wonder what you see doing in improving some of the air deficits, oxygen deficits, clean air deficits in the EPA Building itself.

Mr. **Reilly**. Well, I must say that the fact that we have these kinds of problems in the headquarters of the Environmental Protection Agency, I still find anomalous and shocking.

We have given them a very high priority over the past year. We have, first of all, moved the employees who seem to have the most persistent, the chronic problems, some of which we couldn't trace causes for but were clearly caused by something relating to the ventilation or the carpets or something else. We moved them out, found other facilities for them.

We have studied the ventilation. We brought in an engineering consultant to look at the adequacy of the ventilation, particularly in some of the below ground-level offices. We have gotten a number of machines to try to enhance the ventilation, the interior ventilation. We've tried to ventilate separately places like xerox rooms and janitor's closets that have chemicals in them, other areas where there's smoke or where it's been difficult to get air to interchange.

We have also begun to remove the carpets. That has proved to be somewhat controversial. At first, we offered to take the carpets out, thinking that that was the interest, the wish of our people throughout the Agency. We discovered, as we were removing them, however, that not everybody felt that way.

So we've now essentially said that that's up to specific people in offices to determine whether they want the carpets removed and have tile replace them or whether they want to keep carpets. We've got a lot of new carpet that we purchased. It turns out that that has had some problems associated with it as well. The glue to mat it down has needed some attention.

We are moving some personnel out. We're taking, I think, 55,000 feet very soon in Crystal City and then another 50,000 or so after that, putting some of the people in the offices where they've been most affected by the lack of good ventilation in, and hope finally to get a grip on this problem, which goes well beyond some of the pollution problems.

We've had elevator breakdowns regularly in the Agency. I've had two that I've been in during the year that I've been with the Agency that it just stopped between floors. I accused somebody——

AGE OF EPA BUILDING

Senator **Nickles**. Could I ask, what's the age of the building that you're in right now?

Mr. **Reilly**. It's not an old building. I think it was built in 1970. That's when we moved into it. It was not constructed for the purpose that it's now put to. It was built as an apartment/condominium building. The Government took it over for offices. So those elevators never were intended to have the stress and use that they've got.

CAPACITY OF EPA BUILDING

Senator **Mikulski**. The building itself was designed, at best, to hold 1,500 people, if it was not used for its residential use. I believe you have somewhere like 4,500 to 5,000?

Mr. **Reilly**. Over 5,000, I think.

Senator **Mikulski**. So you have three times as many people using elevators that were designed for residential use and are now day-to-day, back-and-forth floorage.

You have people breathing—I mean, the very nature of intaking and exhaling. We ourselves create certain things, just the critical mass. The ventilation systems were again designed for condominium/small apartments. And they've opened it up for office space, et cetera, et cetera.

So, essentially, it was a bad decision, to assume that a residential building could be converted for a large-scale agency. A residential building could have been converted to small business and essentially kept the condo structure because it would have retained the integrity of the original design, No. 1, and, No. 2, the use of the elevators and all that, but a big agency, with 5,000 people, I mean they're really squashed in.

So the Administrator does need more space but, for the men and women left at the Agency, some of the other things are sources of problems. I understand that in the November 1989 house survey, half of your employees reported health problems that seemed to be related to the very nature of working at EPA.

I might add, I've got a dump over in Baltimore, the Fallon Building, that—I mean, the day after I was elected and talked to the Mathias staff, they said, "Congratulations, and don't move upstairs." It's there. A lot of our government buildings are poorly designed.

TOXIC CARPET

Having said that, though, your comment about this toxic carpet and the controversy is something I haven't heard. What I've heard from Federal employees and their organizational representation is that the carpet is a serious problem, that the majority of employees want it out.

I'm not disputing what you said. I'm telling you what I know. And that only 8 percent of the toxic carpet had been removed and, therefore, it seemed that it was inertia that was also creating these problems.

Mr. REILLY. We thought too, for a time, that the majority of people want the carpet out and we had made plans to get it out, and then discovered that there were a lot of folks who did not agree with that.

Senator NICKLES. Madam Chairman, could I ask a question before you change issues?

Senator MIKULSKI. Yes; because then I'm going to a meeting with my Governor.

Senator NICKLES. I knew you wanted to change it.

Senator MIKULSKI. No; I need to leave.

Senator NICKLES. Mr. Reilly, on this, was there any scientific proof? You know, when you talk about toxic carpets, is there anything to this other than the fact that there was a survey of a lot of people who were dissatisfied?

Mr. REILLY. Who did that study?

Mr. HANLEY. The research people and air people did. And we did find a chemical that is thought to be an irritant. We have found it very difficult to quantify the risk. Mike? Or Erich?

Senator MIKULSKI. Erich, you have to stand up and give your name, your serial number——

Mr. BRETTHAUER. I'm Erich Bretthauer. Our laboratory in North Carolina has taken samples of the carpet in vacuation chambers and looked at the chemical constituents in those carpets. We have found one chemical in the carpet whose name I can't recall, which is toxic. But the levels coming out of the carpet, we believe, are such that they don't present a substantial health problem.

Nonetheless, it was a concern.

Senator **Nickles**. Well, no one's ingesting the carpet. I'm saying, are there air toxics from the——

Mr. **Bretthauer**. That's what I said.

Senator **Nickles**. It's off gases?

Mr. **Bretthauer**. When we measured the off gases, the chemicals coming off of that carpet, we saw the usual mix of chemicals coming off it.

Senator **Mikulski**. But do they have people walking on it? What about the friction?

Mr. **Bretthauer**. Our test is designed to look at that.

Mr. **Hanley**. I believe we have removed all of the carpet that had the offensive chemical in it. It is other carpet that is at stake. But I'll check and confirm that. The chemical Erich's referring to is part of a new set of carpet; is that correct, Erich?

Mr. **Bretthauer**. That's correct.

Mr. **Reilly**. I have committed—before you go—to bringing the Agency, all areas of the Agency up to engineering health standards and to moving people out of those areas where we're just not successful in doing that. So we will keep that commitment.

Senator **Mikulski**. Mr. Reilly, we want to work with you on that and we need both a commitment and also a planm aaaa pacing of the implementation, that is an urgent one. If it needs GSA involvements, then we want to work with you.

Mr. **Reilly**. I appreciate that.

Senator **Mikulski**. The time is growing late.

EASTERN EUROPE

I just wanted to make two last comments—one about Eastern Europe. I know of your concern. We talked about that. I understand you're cutting international activities in the budget by 13 percent. The fiscal 1991 request is $4.8 million—compared to $5.5 million last year.

Would you check that? Because the other thing that I'd like to talk with you about is really your plan for eastern Europe or your sense of involvement, so we just don't throw money at it, either out of this committee or wherever. But, sir, I know you've traveled there, as have I. What is happening to air pollution, for example, in Krakow, it is destroying people and buildings that even the Nazis couldn't do.

[The information follows:]

OIA FISCAL YEAR 1990–91 BUDGET COMPARISON

	FTE	Total
OIA budget request:		
Fiscal year 1990	53.0	$5,474,300
Fiscal year 1991	52.0	4,764,400
Change, fiscal year 1990 to 1991	−1.0	−709,900

The reduction in 1 FTE from FY 1990 to FY 1991 represents a transfer from the Office of International Activities (OIA) to the Office of General Counsel (OGC) of resources to support the legal activities resulting from the recently expanded mission of OIA.

Of the $709,000 reduction from FY 1990 to FY 1991, $346,000 represents a one-time investment in a Local Area Network (LAN) for the newly created Office. These funds are being used in FY 1990 for the design and installation of the LAN, as well as the purchase of the necessary hardware and software to support this function.

The balance of the reduction ($363,900) is the result of a one-time add-on by Congress. This money was specifically identified for global warming and stratospheric ozone activities.

AIR POLLUTION IN KRAKOW

Senator MIKULSKI. When I went to visit their little air quality monitor, they keep it on the fourth floor of their museum in the square in Krakow within sight of the university and Copernicus' home. You walk past lots of artistic treasures to go into a little room where they have their scientific monitoring—I believe it came from Sweden—and that they consider the most priceless treasure to save Krakow.

So this is really a very serious problem. You can't breathe in East Germany.

Mr. REILLY. I understand and agree with that. I'm very aware of that. The condition of the rivers, the number of cities that are polluted to over 10 times above international health standards, in the Soviet Union, in Czechoslovakia, in Poland, and in East Germany. We have been asked to help many of those countries. As you know, we're doing some systematic things for Krakow itself on clean coal technology and air monitoring. We're also hoping this summer to open a new regional institute in Budapest that—as part of the President's initiative for Eastern Europe will serve all of Eastern Europe, and giving a very high priority to that.

OFFICE OF INTERNATIONAL ACTIVITIES BUDGET

I just want to mention, apropos of our Office of International Activities, which is very engaged in these questions, that it did increase substantially. It doubled in staffing in the past year and has grown quickly, as we've elevated the status of the head of that office and are staffing up to that Office's expanded mission. So I don't think that one should see this drop-back as in any way a trend or, relative to the increase that the Office has just had, a very serious concern.

Senator MIKULSKI. Well, it's not our job to solve all the environmental problems of Eastern Europe but I think we bring a great deal of technical expertise and I'd like you to take a look at your budget in international activities.

Mr. REILLY. One of the authorities that is in the new Cabinet status bill, is a specific authorization for the Agency to provide technical assistance to other countries. There has never been a time when more countries have urgently wanted that assistance and needed it.

We have tried to do that in the past but we haven't apparently had specific statutory authority to provide the kinds of technical assistance wanted. So this will clarify, once and for all, that part of our mission.

ASBESTOS

Senator **Mikulski**. I can't let the hearing close without me talking about kids and asbestos. I know your views. You've talked about them last year; I'll reiterate mine.

I truly believe that the Environmental Protection Agency is an important leader in public health. We often think of access to health care as the access to medical care. Yet, the things that we will do with clean air—getting lead paint out of buildings, the asbestos out of schools—will have a profound impact. My concern is that, when we do the mandates, we really have to help the funding.

So we're disappointed that asbestos grants to schools isn't in the budget.

Do you know how much it costs to get lead paint out of a kid's blood at Johns Hopkins? Eight thousand dollars, Mr. Reilly. Then the child goes right back home. Eight thousand dollars which, if we put in that child's education or in Medicaid or prenatal care, would do more for not only that child but other children. So that's something people fail to realize. They think it's all access to medical care.

Some of the things that you're doing would negate or minimize the need for medical care. So I would just hope that we could keep our focus on this.

I just want to conclude by saying I support the Cabinet status for EPA. I know your sincere commitment to the environment. We look forward to working with you.

I know that EPA can't solve one problem at a time, though we often focus like that at these hearings. We also don't want to get bogged down in headline crises. You know, it is grapes this week and it is Superfund next week. You can't manage by headline and we don't want you to.

So we're looking forward, not only to having the EPA budget, but this risk strategy and a strategic plan for working with you. We look forward to getting that promptly.

Mr. **Reilly**. We look forward to it ourselves and give that very high priority. I'm very pleased that you began and ended on that note, and you focused on it as well. It's the way we want to orient what we do in the years ahead. We'll look forward to having your support and cooperation on that.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

NONPOINT SOURCE FUNDING LEVELS

SENATOR MIKULSKI: Nonpoint sources pollution represents the primary casues of pollution in surface waters. Why do nonpoint source gratns make up only 12% of the agency's proposed water quality budget, and why are you proposing to slash funding for nonpoint grants by more than 60%?

ANSWER: EPA and the States recognize that nonpoint source (NPS) pollution is one of the major remaining water pollution control challenges in the country. Tackling this challenge effectively will require increased efforts at all levels of government and in the private sector.

Congress appropriated $40 million for Section 319 implementation funding in FY 1990. Awarding this money will serve as seed money to help energize State implementation of controls for their most pressing NPS needs. In FY 1991 EPA is requesting $15 million. This is the first time the Administration has requested funding for Section 319. States are required, by law, to contribute at least 40% to the cost of implementing nonpoint source programs, thereby increasing the overall amount of revenues available to implement Section 319 programs. Many States have far surpassed this requirement, and have established well-funded State programs for nonpoint source control.

In addition, it should be noted that the funds that EPA is requesting under Section 319 for FY 1991 are only one portion of the total Federal resources that will be directed to address nonpoint sources of water pollution. EPA is also requesting an increase of 14 workyears and $1,454,900 in the Water Quality Management Program. The increase will support expanded efforts to provide technical assistance to states and local governments to help implement nonpoint source pollution prevention and control measures. Again, this is the first Administration request in support of expanded EPA resources to help states address NPS pollution.

NONPOINT SOURCE GRANT DISTRIBUTION

SENATOR MIKULSKI: What are the most important factors being used to determine the distribution of the grants? Will all States receive nonpoint grants, even those that do not yet have fully approved management plans? If not, which States aren't receiving funds? How are you assisting States which do not have fully approved plans?

ANSWER: In the FY 1990 Section 319 appropriation, Congress directed EPA to derive an allocation formula which reflected State nonpoint source (NPS) needs. In December 1989, EPA issued State planning targets which we emphasized were starting points for discussions with the States, not entitlements. Our goal has been to direct these funds to effective, high-quality NPS programs that will achieve the best possible environmental results for our Federal investment.

The formula used to derive the FY 1990 initial planning targets included the following factors:

o Major factors: -Population
-Crop, pasture/range, forest acreages
-Minimum base amount for all States

These major factors accounted for about 75% of the weighting in the formula.

o Other factors: -Wellhead Protection Areas
-Wetlands
-Mining
-Pesticides

These factors accounted for the remaining 25%.

To be eligible for an FY 1990 Section 319 grant, a State must have received EPA approval of its NPS assessment and management program, or portions of its management program, by January 4, 1990. All States, with the exception of Alaska, met this criteria. All States, except Alaska, will be receiving some FY 1990 Section 319 funds. Regions have made State by State decisions based on the quality and effectiveness of the proposed State NPS activities. As a result, some States have received more than their initial planning targets, some received 100% of their target, and some received less.

In FY 1991, we have requested $15 million for grants to States. These funds will go toward demonstrating innovative and broadly applicable approaches for solving NPS pollution problems.

STATES WITHOUT STATE REVOLVING FUNDS

SENATOR MIKULSKI: At the beginning of FY 90 only 43 States had operational SRF programs in place. Will all of the states and territories have signed capitalization grant agreements for SRF programs by the beginning of FY 1991?

ANSWER: We anticipate that the fifty States and Puerto Rico will have signed capitalization grant agreements by the beginning of FY 1991. However, the District of Columbia (DC) and the trust territories are not expected to establish State Revolving Funds (SRF). The Agency's 1990 appropriation allows the territories and DC) to use their FY 1990 Title VI appropriations to provide grants for projects rather than to capitalize SRFs.

SENATOR MIKULSKI: Which States currently do not have SRF agreements and what problems are delaying agreements in these states?

ANSWER: The States of Arizona, Delaware, Montana, New York, North Dakota, Rhode Island, West Virginia and Wyoming do not currently have SRF agreements. We assume that the territories will be subject to a broader exemption based on the approach established in the 1990 appropriations bill. Issues and problems involved in the State programs are listed below:

Arizona	The state anticipates bonding for the required State match funds but has been slow in developing its financial plan to accomplish this. Arizona expects difficulty in establishing the required environmental review authority.
Delaware	No current or anticipated delays. Expect grant award in FY 1990.

Montana	No current or anticipated delays. Expect grant award in FY 1990.
New York	No current or anticipated delays. Very close to grant award in 1990.
North Dakota	No current or anticipated delays. Expect grant award in FY 1990.
Rhode Island	No current or anticipated delays. Expect grant award in FY 1990.
West Virginia	The state is having trouble meeting the match requirements and in marketing loans because of affordability problems by local governments.
Wyoming	No current or anticipated delays. Expect grant award in FY 1990.

SENATOR MIKULSKI: If a state doesn't have an SRF in place by the end of FY 90, will they lose out entirely and receive no federal wastewater construction assistance?

ANSWER: No. States which do not have SRFs in place by the end of FY 1990 lose half of their FY 1989 allotment (the portion associated with an SRF Capitalization grant). The FY 1989 and FY 1990 allotments associated with Construction Grants and planning are not lost by failure to establish an SRF by the end of FY 1990.

RURAL AREA STATE REVOLVING FUNDS

SENATOR MIKULSKI: Some states are finding it difficult to establish SRFs because small communities in particular cannot manage the technical and financial complexities of loans for multi-million dollar capital projects. How are states coping with this problem?

ANSWER: With the exception of West Virginia, States have not reported to us that the inability of small communities to manage loans has prevented the establishment of a State Revolving Fund (SRF). However, many States have recognized that small communities in their States may have difficulty affording even a zero interest loan and have expressed concerns about the fiduciary soundness of loans to these communities. Some States have established State grant programs to ease the financial burden. Many States have technical assistance programs which help the communities understand their options.

SENATOR MIKULSKI: What sort of assistance is EPA providing to these states?

ANSWER: EPA has recently implemented an outreach program, titled the Small Community Outreach and Education Program (SCORE), aimed specifically at facilitating the provision of technical, managerial and financial assistance to small communities. EPA has also made available staff and contract assistance to States to help develop SRF and related programs which recognize the unique problems and needs of small communities.

VIABILITY OF STATE REVOLVING FUNDS

SENATOR MIKULSKI: Does the agency have any basis to measure the success of SRFs as a replacement for construction grants in providing funds for sewage treatment plant construction?

ANSWER: It is very early to make any valid comparisons between the Construction Grants program and the State Revolving Fund (SRF) program, however, a number of trends are interesting:

- Of the total of $1.5 billion in grants that have been awarded to SRFs approximately 42 percent or $.6 billion has been transferred from funds appropriated to the construction grants program. This level of transfer seems to indicate that some States believe there are advantages in the SRF program over grants.
- Over the long haul significantly more assistance will be available in the SRF program because of the continuous recycling of funds.
- Eight States have "leveraged" the Federal grant and in these States they have provided levels of assistance significantly above the grant amount.

IMPACT OF FUTURE SEWAGE PLANT COSTS

SENATOR MIKULSKI: Given the staggering cost estimates of what is needed to build new treatment plants, as well as the costs of replacing aging plants, are we setting ourselves up for a future environmental and financial crisis by assuming that states are going to be able to pay for this?

ANSWER: It was never envisioned that Federal funding would be responsible for all wastewater treatment needs. It has always been the primary responsibility of State and Local governments to provide for their wastewater treatment needs. We believe that the cost for facilities should be borne by the users of the facilities. The State Revolving Fund program was established to assist State and local governments to meet these responsibilities by establishing a permanent pool of capital at the State level. We are also working on initiatives to increase our assistance in operations and maintenance, better communicate technical opportunities on appropriate and affordable technologies, and encourage greater partnerships between the public and private sectors. Finally, we are taking steps to promote compliance maintenance as a means to reduce pollution and assure least cost life cycle management of wastewater facilities.

SAN DIEGO/TIJUANA SEWAGE REQUEST

SENATOR MIKULSKI: Why is EPA including funds in its budget request for the first time for the San Diego/Tijuana sewage project -- what has brought about the change of heart within the Administration?

ANSWER: The EPA request of $15.7 for FY 1991 will implement the international agreement signed by both the Mexican and

U.S. Presidents on October 3, 1989 to create an international sewage plant to treat renegade sewage flowing from Tijuana into the U.S. at San Diego.

SENATOR MIKULSKI: Language in the House Committee Report for FY 1989 stated "if additional funds are required to complete construction of this operable defensive system, the Committee expects such funds to be provided from other sources." Doesn't this indicate Congress' intent that no more federal funds be appropriated?

ANSWER: The EPA FY 1991 request is for a different project than the "defensive system" contemplated by the 1989 appropriations report. The 1991 request is for the construction of an joint Mexican - U.S. sewage treatment plant that would treat Tijuana sewage flows in the United States. The "defensive system" would only have returned Tijuana sewage to Mexico for treatment in that country.

SENATOR MIKULSKI: What is the total project cost and how much of the bill will be footed by the federal government? How much is Mexico contributing to the total project cost?

ANSWER: The estimated total project cost for the construction of the joint treatment plant is $175 million. The estimated Mexican contribution is expected to be $16 million. Of the $159 million U.S. share, the federal government is expected to contribute $132 million with the remaining $27 million contributed by the state. Formal negotiations with the Mexican government have not been concluded, so these estimates may change.

CHESAPEAKE BAY TOXICS RESEARCH

SENATOR MIKULSKI: Why didn't any of the money provided in FY 89 for toxics research in the Bay go to Bay area research organizations? How can toxics in the Bay be studied anywhere else?

ANSWER: Twenty-one percent of the FY 89 Congressional add-on of $750,000 for toxics studies will go to Bay research institutions. The allocation of these funds among various organizations is as follows:

FY 1989		
Bay Area Research Institutions	$156,000	21%
Bay States, including the Washington Area Council of Governments	$290,000	38%
Bay Area Contractors	$147,000	20%
EPA Laboratories	$106,000	15%
Overrun Contingency	$ 51,000	6%
Total Funding	$750,000	100%

Funds were provided to the EPA Environmental Research Laboratory at Newport, Oregon, to support a two-year estuarine sediment toxicity research program. This project is a priority in the Chesapeake Bay toxics research plan which was developed/approved by the Blue Ribbon Panel (appointed by the Chesapeake Executive Council). This work will result in fully developed and validated estuarine sediment toxicity test procedures. Rick Schwartz, who was part of the original Chesapeake Bay Research Group, is leading this effort. Rick is the internationally recognized expert in this research area.

SENATOR MIKULSKI: Will the $1.1 million provided in FY 90 go to Bay area research organizations or will it be conducted elsewhere?

ANSWER: Almost two-thirds of the FY 90 Congressional add-on of $1.1 million is planned to go to Bay area research institutions as well. The allocation of these funds among various organizations is as follows:

	FY 1990	
Bay Area Research Institutions	$675,000	61%
Bay States, including the Washington Area Council of Governments	$380,000	35%
Overrun Contingency	$ 45,000	4%
Total Funding	$1,100,000	100%

Total funding from the Bay program to the Bay area research institutions for monitoring, research, and related activities, including the above toxics studies, totaled almost $ 1.5 million in FY 89 and is expected to be over $2.1 million in FY 90.

The toxics program priorities were established by a Blue Ribbon Panel, an independent panel appointed by the Chesapeake Executive Council. The panel was asked to recommend the immediate priorities for implementing the Basinwide Toxics Reduction Strategy. This strategy included the toxics research plan.

The priorities of the panel have been implemented in the FY 89 and FY 90 programs. They included development of the basinwide toxics loading inventory and the basinwide pesticide use survey. The panel also wanted to initiate prevention and minimization activities, so they selected an integrated pest management (IPM) program to take an active step against the development of future toxics problems.

CHESAPEAKE BAY ENFORCEMENT

SENATOR MIKULSKI: What steps are being taken to respond to the recent Inspector General report that criticized enforcement against polluters of the Bay?

ANSWER: In December 1989, EPA Administrator Reilly assumed the Chair of the Chesapeake Executive Council, a creation of the Chesapeake Bay Agreement of 1987. Administrator Reilly announced two goals on this occasion: 1) to reduce by half the number of Clean Water Act significant non-compilers that discharge to the Bay watershed by the end of 1990; and 2) to completely eliminate non-compliance by Federal facilities that discharge in the Bay watershed (no specific time period stated).

The goals established by the Administrator have been translated by EPA Region III, with assistance from EPA Headquarters, into a Chesapeake Bay Compliance and Enforcement Initiative. The Initiative is specifically designed to both cut in half the number of significant violators of the Clean Water Act in the Chesapeake Bay watershed by the end of 1990 and attain full compliance by Federal facilities in the Bay Watershed by the end of the calendar year. These goals are to be attained through early detection of noncompliance backed up with whatever enforcement is necessary to compel compliance. Region III is using the Bay Initiative as an opportunity to improve its enforcement coordination with the States of Pennsylvania, Virginia, and Maryland.

The Chesapeake Bay Compliance and Enforcement Initiative will include a Bay wetlands enforcement initiative, as well as the targeting of polluters that discharge to sensitive environmental areas of the bay, especially striped bass spawning grounds.

PUBLIC WATER SYSTEM GRANTS

SENATOR MIKULSKI: You are requesting $47.5 million for public water system grants. Although an increase over FY 90, a study conducted by both EPA and the Safe Drinking Water Administrators indicate that the states need $200 million. Given this, do you really think your budget request is adequate?

ANSWER: The budget request for 1991 focuses on program implementation of priority elements having high risk threats to human health and drinking water supplies, and reflects the reality of federal constraints.

SENATOR MIKULSKI: I am told that with the requested budget for public water system grants, there is a possibility of a primacy crisis within the next two years due to a lack of resources. What is the likelihood of that? What would be the implications of this?

ANSWER: Many states are in jeopardy of losing primary enforcement authority for failure to demonstrate sufficient program capability. As you have highlighted, the costs of implementing the new regulatory requirements are high. It falls upon the states to increase their program capacity or face the prospect of losing primacy.

Primacy revocation is a step neither EPA nor the states would want to take. EPA is prepared to fulfill its obligation to implement PWS programs in the event states are unwilling or unprepared to fulfill the responsibility adequately. However, we recognize that assuming primacy would cost EPA far more than is presently spent to directly implement national requirements, and that EPA could only implement the most rudimentary program with available resources. A far more effective program results when EPA and the states work in concert and combine resources.

SUPERFUND MANAGEMENT REVIEW

SENATOR MIKULSKI: What is the status of implementing recommendations which came out of the 90-Day Review?

ANSWER: During his confirmation hearing, the Administrator committed to a quick but intensive review of the Superfund program. After his confirmation, he ordered such a review. This 90-Day Review, now known as the Superfund Management Review (SMR), was completed in June 1989. The Administrator approved the recommendations made in the SMR and directed that a detailed Implementation Plan (IP) be prepared. The IP was published in September 1989.

The IP identified 155 different projects which have 350 implementation products. To ensure that these products are on schedule, the IP identified over 650 milestones. By the end of June 1990, about half of the projects are scheduled for completion; about 90 percent of them are scheduled for completion in 1990. Through January 19, 1990, the date of our latest SMR IP progress report, the Agency met 44 percent of the milestones, resulting in completion of 33 percent of the implementation products and 15 percent of the projects.

SENATOR MIKULSKI: Is it apparent that the plan is working and the Superfund program running more efficiently? If so, what evidence do you have?

ANSWER: Given the broad scope of the Superfund program and the lengthy time frames required to implement total cleanup of a site, it is difficult to prove, conclusively, that the Superfund program is running more efficiently. However, the Implementation Plan is on target, and a number of products which will promote efficiency have already been completed. To increase efficiency in the Superfund enforcement program, guidance and model documents are being developed to provide project managers with established procedures for a number of enforcement activities; these include administrative orders on enforcement claims, consent decrees, and pre-referral negotiation procedures. Guidance has been published on the objectives of the Regional site assessment program. This program is an integral part of EPA's efforts to promote consistency in the National Priorities List. A timeline integrating response and enforcement activities has been developed. This timeline depicts the timing of key response and enforcement activities so that efficient coordination can occur.

Superfund Management Review (SMR) results to date have been most evident in the area of enforcement. Responsible parties (RP) have undertaken more than 50 percent of the construction projects started in 1989 and are planned to start in 1990. RPs committed to undertake over $1 billion in site response work in 1989. EPA anticipates further benefits in the areas of community involvement, accelerated remedial actions, and improved contract management. These results will become more evident as EPA moves into the third and fourth quarters of SMR implementation.

SENATOR MIKULSKI: What is the total dollar amount being spent in FY 90 to implement that plan? How much is budgeted for FY 91?

ANSWER: For 1990, the Congress approved EPA's request to reprogram $75 million to implement the Superfund Management Review (SMR). It is anticipated that these funds will be sufficient for 1990. SMR needs for 1991 were built into EPA's 1991 President's Budget request and were not specifically identified. It is estimated that they will also be $75 million.

SUPERFUND LEGISLATIVE MANDATES

SENATOR MIKULSKI: How many new remedial action starts are planned for 1991 and how does that compare to the requirements of SARA?

ANSWER: The Agency plans to begin 76 new remedial actions in 1991, in addition to the 46 starts planned for 1990. This total of 122 actions compares with the SARA requirement to initiate 200 new remedial actions in 1990 and 1991.

SENATOR MIKULSKI: Was the deadline for completing 257 new RI/FSs by October 17, 1989 met? Why not?

ANSWER: Yes, the Agency started 321 new RI/FS as of this date, thus meeting the SARA mandate.

SENATOR MIKULSKI: Why aren't you meeting the requirements of SARA?

ANSWER: Most of the major statutory deadlines have been met. For example, the 275 remedial investigation/feasibility study (RI/FS) starts required by Section 116(d)(2) of SARA and the 175 remedial actions (RAs) required by Section 116(e)(1) of SARA have been achieved. Only seven of the more than sixty statutory deadlines for which EPA is responsible have currently not been met. The unmet deadlines are to: promulgate final regulations establishing reportable quantities (RQ) for all hazardous substances for which proposed RQs were published prior to March 1, 1986; promulgate amendments to the Hazard Ranking System (HRS); establish an effective date for the amended HRS; complete preliminary assessments as necessary; complete site inspections at facilities contained in CERCLIS; issue regulations on the form of the notice required whenever any federal department, agency, or instrumentality enters into a contract to sell or transfer property owned by the United States on which a hazardous substance was stored, disposed, or released; promulgate regulations for reimbursement of local governments for costs incurred in responding to releases or threatened releases of hazardous substances; and submit an annual report to Congress on CERCLA implementation.

While the goal of Section 116(b) of SARA on site investigations has not yet been achieved, we are making significant progress. Revision of the HRS and promulgation of the National Contingency Plan (NCP) proved too complex for the statutory timeframe established. The NCP was promulgated on March 8, 1990 and the revised HRS is scheduled for the summer of 1990. The reasons for not meeting the remaining unmet statutory deadlines are technical complexity [e.g., Section 102(a)], delays in the rulemaking process [e.g., Section 105(c)(1)], and delays acquiring and reviewing statutorily required data [e.g., Section 301 (h)].

SENATOR MIKULSKI: Does your proposed budget direct resources to meet legislatively-mandated targets? If not, what level of resources would enable you to do so?

ANSWER: The proposed budget directs resources to the maximum extent practicable to meet all of the SARA goals.

The program has successfully met the SARA goal to conduct Preliminary Assessments (PA) at all sites in CERCLIS at the time of enactment of SARA. The FY 1991 President's Budget request continues to support this effort.

The SARA goal for Site Inspections (SI) states that an SI must be conducted where PAs have shown that an SI is warranted. EPA is moving expeditiously to complete the SARA SI goal. The thrust of the program over the past three years has been to concentrate resources on completing SIs for pre-SARA sites, while improving the quality and timeliness of all products. EPA Regions VI and X met the SARA goal by January 1, 1989; Regions III, VII, and VIII will meet the goal in FY 1990. The FY 1991 President's Budget request will support the remaining Regions' work toward minimizing the pre-SARA SI backlog prior to SARA Reauthorization.

To meet the two-year RA start deadline, EPA would need to initiate cleanups at 78 additional projects. EPA estimates that this would require approximately $650 million and 50 workyears in additional resources.

SUPERFUND EVALUATIONS

SENATOR MIKULSKI: Proposed reduction in Superfund site evaluations may mean that the worst sites aren't being identified which will delay progress on a mounting backlog of sites needing evaluation

FACTS:

-- although budget requests almost $1.26 billion for site cleanups ($200 million and 18% increase), budget proposes $50m (27%) reduction in site identification and assessment down from $182m to $132m

-- GAO indicates that this proposed slow down will defer to future years a backlog of work in this area

-- GAO estimates total number of hazardous waste sites potentially needing Superfund evaluation to be between 130,000 and 425,000; EPA has begun evaluations at only 30,000

-- OTA said EPA and industry have spent only 1-2% of all money necessary to address all Superfund sites

What is EPA's estimate of potential number of sites nationwide which remain to be assessed for Superfund eligibility?

ANSWER: Using a systematic method to evaluate categories of sites by potential impact to human health and the environment, statutory exclusions, deferral to Subtitle C of the Resource Conservation and Recovery Act, and analysis of sites on the National Priorities List (NPL), and the Comprehensive Environmental Response and Liability Information System (CERCLIS), the Agency has developed an estimate of the potential number of sites nationwide that should be assessed for Superfund eligibility. EPA has identified 32,000 sites which are currently in the CERCLIS data base, and anticipates about 2,000 sites will be added each year. Approximately 29,500 CERCLIS sites have received at least a Preliminary Assessment. To date, the Agency has decided that further Federal action is not appropriate at 18,000 of these sites, and has listed 1,301 sites on the NPL. Therefore, approximately 10,000 CERCLIS sites are still being evaluated. Of the sites yet to be identified, Superfund is currently piloting discovery programs in several Regions to explore various ways to identify them.

SENATOR MIKULSKI: You are planning to cut back on site identification and assessment, which will delay Superfund site evaluations. Why are you cutting back in this area?

ANSWER: Competing resource needs and program priorities required that EPA reduce its emphasis on conducting site identification and assessment activities. However, EPA should come close to meeting the SARA goal for site inspections by the end of 1991.

EPA has designed and implemented a Priority Setting Matrix to provide a framework for establishing, testing, and adjusting resource levels. The matrix is designed to identify and rank the most significant categories of program priorities. Based on these priorities, resources were shifted from site evaluation activities to fund classic emergency removals (hazardous sites that require response within 24 hours), ongoing projects in the remedial pipeline, efforts to negotiate settlements with responsible parties, and to begin construction activities.

SUPERFUND RESEARCH

SENATOR MIKULSKI: Given the need for developing cost effective destruction technologies, research should be more of a priority.

- FY 91 request for Superfund research is $71 million, 8.6% decrease below FY 90
- the development of cost-effective destruction technologies should remain a priority for EPA since the number of Superfund sites out this is still enormous
- OTA report "Coming Clean" (Oct. 89) stated that $500 billion may be needed to clean up all Superfund sites

OTA estimates that as much as $500 billion could be needed over the next 50 years -- $10 billion a year -- to clean up all Superfund sites -- unless there are major technological innovations that could bring the costs of permanent remedies down. Given this, why is your budget request for Superfund research falling by 8.6%?

ANSWER: The reasons for the overall reduction in funding in Superfund research is related to the initial implementation of the Superfund Management Review in FY 1990 and new increases in FY 1991.

To implement the Superfund Management Review, we took two types of actions. First, 25.5 FTEs and $2.5 million dollars were added in FY 1990 for an expanded technical support program to meet the Agency's needs. This resulted in a 43% increase to a total of 84 FTEs. This major expansion in the level of technical support is continued into FY 1991. Second, an initial investment of $12 million in extramural funds was added in FY 1990 to carry out other elements of the Superfund Management Review such as the Superfund Technical Assistance Response Team (START), treatability studies, and technology evaluation. While some of this investment is not carried over into the FY 1991 budget, the initial investment in FY 1990 will enable us to make important progress in meeting a number of Superfund program needs.

While the overall budget request is down for the reasons noted above, we have requested increases for selected programs which partially offset the decreases. Increases are requested for the following three important areas: Subsurface Cleanup and Mobilization Processes (SCAMP), quality assurance of field sampling, and assessment of ecological risks at Superfund sites.

SUPERFUND RESEARCH

SENATOR MIKULSKI: While the one-time funding of the Superfund Management Review may account for part of the answer, it is not the whole answer. At $73 million the FY 1989 budget was higher than the FY 1991 *request. So why the decrease for Superfund research?

ANSWER: The amount obligated in the FY 1989 Budget included an "extra" $5 million in carryover funding from FY 1988 for the Hazardous Waste Research Centers Program. However, the appropriate FY 1989 level for comparison should be $68 million. Thus, the FY 1991 request of $71.8 million is an increase of 5.6% over the adjusted level for FY 1989.

The FY 1989 Budget was an unusual year for comparison purposes. Although $5 million had been appropriated for the Hazardous Waste Research Centers Program in FY 1988, the initial grants for this program were not awarded until early in FY 1989. A solicitation for the grants program was published in March 1988 and the peer review panel completed its work in October 1988. The initial grants to the selected Centers were subsequently awarded shortly thereafter.

*Question was changed from FY 1990 to 1991 because the budget request is for FY 1991.

SUPERFUND RESEARCH AND WORKER TRAINING PROGRAM

SENATOR MIKULSKI: The Superfund worker training program administered by the National Institute of Environmental Health Sciences is cut by 50% in the President's budget. The NIEHS research program is cut by 30%. Yet the Superfund program overall is slated for a $209 million increase. Please explain the rationale behind these cuts which some believe are large enough to jeopardize the success of these two programs.

ANSWER: Section 111(d)(12) of the Superfund Amendments and Reauthorization Act authorizes up to $10 million per year to support the Worker Safety Training Grants program administered by the National Institute of Environmental Health Sciences (NIEHS). In the appropriation process for 1990, Congress raised the ceiling in Section 111 for this program to $20 million and appropriated that amount. The 1991 President's Budget request is $10 million, the level requested in the previous four years, and is consistent with the Agency's needs for the worker training program.

In 1990, EPA requested $11.9 million to support the NIEHS research program. Congress approved $16.9 million for this program, a $5 million increase. The $11.9 million funding request in the 1991 President's Budget supports the level of research activity conducted before the one-time funding increase in 1990.

SUPERFUND ENFORCEMENT

SENATOR MIKULSKI: Superfund enforcement overall increases 10% to $180 million in your budget request. However, criminal investigation, an important component, would be level funded at $1.2 million. Yet you are calling for increased criminal referrals and indictments. How can increasing complex enforcement activities (indictments and referrals) increase when funding remains stagnant?

ANSWER: The FY 1991 Budget request for the total criminal investigations program is 81.9 workyears and $6,430,200. This total includes 64.7 workyears and $4,857,800 for non-Superfund related investigations and 17.2 workyears and $1,572,400 for Superfund related criminal investigations. This distinction is made because Superfund criminal investigations generally result in the discovery of violations which can be pursued under other environmental statutes, Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act and others. The non-Superfund workyears increase by 7.8 workyears over the FY 1990 level, while the Superfund workyears are constant. The dollar levels for both sources of funding increase, although the larger increase is reflected in non-Superfund because of the increased workyears.

Small increases of Superfund criminal enforcement activity are projected in 1991: four additional criminal referrals, and six additional criminal investigations. Despite the steady state level of staffing, we believe this increased workload can be accomplished as a result of increased productivity (the benefit of a learning curve) from criminal investigators hired during 1990.

LUST

SENATOR MIKULSKI: Last year at this time we were hearing from a lot of businesses about their concern with not being able to meet financial responsibility requirements of LUST. The deadline for financial assurance for owners of 13 to 99 tanks is fast approaching (April 26). Are methods of financial assurance generally available to these firms and will most firms be able to meet the deadline? If not, what is EPA doing about it?

ANSWER: On March 14, 1990, the Agency decided to extend the financial responsibility compliance dates by one year for both the third and fourth compliance groups. (Please see attached Financial Responsibility Update). Owners and operators who had to comply on April 26, 1990, now have until April 26, 1991. Owners and operators who had to comply on October 26, 1990, now have until October 26, 1991.

Information collected by the Agency from the underground storage tank insurance industry, the regulated community, and the states indicates that the owners and operators in the third and fourth compliance groups need more time to comply with the financial responsibility requirements. The Agency has learned that only two percent of the third compliance group currently have insurance, and recent contractions in the insurance market have demonstrated that the availability of insurance is likely to be further constrained. These extensions will provide more time for state funds to be approved, and will allow owners to complete any tank system upgrades necessary to obtain insurance.

EPA

UPDATE:

Underground Storage Tank Financial Responsibility

Financial Responsibility Compliance Dates

Subtitle I of the Resource Conservation and Recovery Act requires owners and operators of underground storage tanks (USTs) to meet certain financial responsibility requirements for cleanup and third-party damages resulting from leaks that may occur. EPA phased in the financial responsibility requirements for USTs over a two-year period because of concerns about the unavailability of financial assurance mechanisms to large portions of the regulated community. The phase-in was designed to achieve the maximum balance between the need to ensure financial capability for UST releases and the necessary time for owners and operators to obtain assurance mechanisms.

Petroleum marketers owning 1000 or more USTs and non-marketers with more than $20 million in tangible net worth were required to comply in January 1989. Petroleum marketers owning between 100 and 999 USTs were required to comply in October 1989.

Extension of Compliance Dates for Some UST Owners

The Agency has decided to extend the compliance dates of the two remaining groups: petroleum marketers owning between 13 and 99 USTs who were required to comply April 26, 1990, and all other owners, including local governments, who were required to comply October 26, 1990.

The Agency will publish rules to extend these groups' compliance dates for one year each. Those owners and operators who had to comply by April 26, 1990, now have until April 26, 1991. Those owners and operators who had to comply by October 26, 1990, now have to comply by October 26, 1991.

Objectives of EPA

The Agency believes that extending the financial responsibility compliance dates will not adversely affect human health and the environment, as the technical requirements for USTs will remain in effect. These requirements include leak detection, tank upgrading and corrective action.

MARCH 14, 1990

United States Environmental Protection Agency, Office of Solid Waste & Emergency Response,
Office of Underground Storage Tanks
Washington, D C 20460

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LUST

SENATOR MIKULSKI: How many private insurance carriers currently are out there and is that a sufficient number?

ANSWER: Currently, there are at least fourteen insurance carriers writing coverage for underground storage tanks, up significantly from the two or three in the market a few years ago. (Please see attached list). However, this is a dynamic market with companies entering and leaving the market monthly. In some states the absence of private insurers may be due, in part, to the presence of competing state assurance funds. The most significant stumbling block is that many insurers require tank testing, site assessments, or upgrades sooner than prescribed by our technical standards. If owners cannot afford to meet these requirements, or if they discover that their site is already contaminated, they cannot obtain insurance.

PROVIDERS OF UNDERGROUND STORAGE TANK POLLUTION LIABILITY INSURANCE
as of February 12, 1990

This listing is for informational purposes only; it is not an endorsement of any of the insurers listed. EPA has not evaluated these insurers' policies to determine whether they meet the federal financial responsibility requirements. Some policies may be available to current customers only. Also they may not be available to all tank owners and operators as a separate, stand-alone policy.

PETROMARK*
The Planning Corporation
13347 Sunset Hills Road
Reston, VA 22090
(703) 481-0200
Contact: Kathryn Martin
* Currently not issuing new policies

Federated Mutual Insurance Company
129 East Broadway
Owatonna, MN 55060
(507) 455-5200
Contact: Bob Rinaldi

Oilmen's Fund
350 Fifth Avenue, Suite 6805
Empire State Building
New York, NY 10018
(212) 629-4290
Contact: Peter Gerken

James Group Service, Inc.
9th Floor
230 West Monroe Street
Chicago, IL 60606
(312) 701-2724
Contact: Jim Stewart

AIG - National Union Fire Insurance Company
70 Pine Street
New York, NY 10270
(212) 770-3148

Liberty Mutual Insurance Company
175 Berkely Street
Boston, MA 02117
(617) 357-9500

AIG - Fred S. James (Program Manager)*
P.O. Box 1675
Harrisburg, PA 17105
(800) 255-7112 (outside PA)
(800) 382-1122
* Designed for Small Businesses

Agricultural Excess and Surplus Company
Great American Insurance Companies
Westar Insurance Group
Bellevue, Washington
(206) 827-6000
Contact: Bruce Thiffault

General Star Management Company
P.O. Box 10354
Stamford, CT 06904
(203) 328-5903
Contact: Ron Austin

Environmental Impairment Purchasing Group
117 Mill Street
Box 584
Hillsboro, WI 54634
(608) 489-3221
Contact: Ed Hardy

Front Royal Group, Inc.
7900 Westpark Drive, A300
McLean, Virginia 22102
(703) 893-0900
Contact: Myra Anderson

Evanston Insurance Company*
Shand Morahan & Co.
Shand Morahan Plaza
Evanston, IL 60201
(312) 866-2800
Contact: Chuck North
* Available in IN, IL, WI

Travelers*
Frank B. Hall & Co. of Missouri
100 North Broadway
Suite 1700
St Louis, MO 63102
(314) 231-0100
* Third-Party Coverage Only

R.L. Jarrett*
7557 Rambler Road
Suite 650
Dallas, TX 75231
(800) 777-7440
Contact: Richard Benton
* Designed to Complement State Fund Coverage

Universal Underwriters Insurance Company
5115 Oak Street
Kansas City, MO 64112
(816) 753-5800

LUST

SENATOR MIKULSKI: Is EPA considering suspending enforcement for the April 26 compliance group? What are the implications?

ANSWER: On March 14, 1990, EPA decided to extend the April 1990 compliance date for one year, rather than suspend enforcement for six months. This extension will provide more time for state funds to be approved, and will allow owners to complete any tank system upgrades necessary to obtain insurance.

SENATOR MIKULSKI: How many states have fund pools or other mechanisms to help businesses comply with financial responsibility requirements? Do all of these meet federal requirements? If not, what are the implications?

ANSWER: Thirty-four states have passed some type of UST assurance legislation. These funds provide either full or partial coverage for corrective action and/or third party liability. States that want to use their funds to assist tank owners to comply with the Federal regulations can submit their funds to EPA for approval. Seven States have already received approvals, including Mississippi, Georgia, Alabama, Iowa, Illinois, Louisiana, and Vermont. Eighteen additional decisions are pending, and we expect the majority of these to receive approval once outstanding issues are resolved. A state Fund may be used to demonstrate compliance only if it is currently under review by EPA, or if it has already been approved by EPA.

SENATOR MIKULSKI: Will any of the FY 91 LUST budget aid states in setting up funds if they do not already have one, or assist states that do have funds but do not meet federal requirements?

ANSWER: Basically, no. Trust Fund monies cannot be used for general financial assurance coverage. The intent of the Leaking Underground Storage Tank (LUST) Trust Fund is to provide funds to the states to pay state personnel to oversee responsible party cleanups or to pay directly for state lead cleanups. However, some limited Headquarter's resources are being used to assist states administratively to establish state funds. It is the state's responsibility to develop their own state funds, and 34 states have enacted legislation creating State Assurance Funds to date. A majority of these states are collecting petroleum taxes and/or registration and inspection fees to finance their State Assurance Funds.

SENATOR MIKULSKI: According to the recent IG report, the method used to distribute LUST funds is inadequate and fails to distribute the funds equitably. What is being done to correct this problem?

ANSWER: The Trust Fund allocation process has been evolving as the LUST program has matured in the states. When funds were first made available, many of the states were not ready to spend the funds for cleanups because they needed to set up their programs and hire staff. During the past few years, we began receiving a greater amount of funds and have been increasing the Regional role in developing the Regional allocation process.

The 1990 allocation was determined by the Trust Fund allocation workgroup which consisted of representatives from

Headquarters and three Regions. One of the underlying principles of this allocation and all future allocations, is to ensure that the factors will remain relatively stable to ease the planning process for all the states and Regions. It was also acknowledged that the weights of certain factors should change to reflect program experience and priorities.

The 1990 allocation had three components: a base allocation, relative need factors, and readiness-to-proceed criteria. The base allocation was $300,000 per participating state and $40,000 per territory. The need factors were number of confirmed releases, number of notified regulated tanks, and the population using ground water. The readiness-to-proceed criteria were used to modify the need factor allocation to assure that funds were directed to areas where the funds could be used. The criteria included whether or not a state (1) oversees responsible party cleanups; (2) conducts state cleanups; (3) conducts emergency responses; and (4) draws down funds for enforcement and cleanup. The fourth category was deemed as the most significant criterion and received a weight of three, while the other criteria each received a weight of one.

In response to our concerns over the states' expenditure rates and in light of the Inspector General's report, we imposed an additional restriction on the 1990 allocation. We requested that the Regions award grants only to states that have spent 20 percent or more of their 1987 through 1989 awards.

The 1991 allocation workgroup will also be placing a greater emphasis on the states' readiness-to-proceed. The allocation workgroup for 1991 consists of Regional and headquarters representatives. Equity in the allocation process has become an important priority for our program, and we will continue to work in this area to improve the allocation process as our program continues to develop and grow.

CLEAN AIR

SENATOR MIKULSKI: You are requesting $82.5 million to implement the President's clean air legislation. How much will be needed if the current Senate version of the bill is enacted?

ANSWER: Since the Senate compromise has only recently been reached, and may possibly be amended, we have not yet fully analyzed the resource implications. There are some areas, such as air toxics, where there are significant new activities that will increase the implementation cost over the Administration's original proposal (H.R. 3030 as introduced). There are also other requirements, such as a Great Lakes and Coastal Waters Program, that are included in the Senate bill but are not part of the compromise.

EPA will perform a complete analysis of the implementation costs when the bill becomes more stable.

SENATOR MIKULSKI: If this bill is enacted, how will you fund new clean air legislation under your proposed budget?

ANSWER: We have proposed an allocation of new resources under the Administration bill. This allocation assigns resources to EPA and states based on the requirements of each title. When the final legislation is enacted, we will reevaluate this allocation and revise it if necessary.

OZONE AND CARBON MONOXIDE CONTROL

SENATOR MIKULSKI: How do the costs of ozone/carbon monoxide control requirements of the pending clean air legislation compare to the costs estimated for EPA's 1987 non-attainment policy?

ANSWER: The costs to states of the permitting program in H.R. 3030 which covers all Titles of legislation will be $300 million per year when the program is fully phased-in. However, H.R. 3030 also requires states to implement fee provisions that are designed to defray the costs of running the program.

SENATOR MIKULSKI: How much of the FY 1991 budget is for ozone/carbon monoxide control?

ANSWER: In FY 1991, support to states and locals for ozone/CO activities accounts for $67.1 million or 48.7 percent of the $137.7 million in section 105 grants provided for in our budget request.

SENATOR MIKULSKI: How are states and localities coping with the financial burden of additional ozone/carbon monoxide control requirements, and how is the agency assisting them?

ANSWER: State and local agencies are currently devoting significant resources to ozone and CO activities, much of which is in response to EPA's requests over the last two years to revise their state implementation plans (SIP's) in over 100 areas that failed to attain the ambient standards. In FY 1990 EPA is providing almost $40 million in section 105 grant funds for ozone and carbon monoxide control activities. This will increase to over $67 million in FY 1991 to implement Clean Air Act (CAA) Amendments. In addition, EPA is providing substantial technical and policy guidance on emission inventory development, modeling, control strategy development, reasonably available control technology, enforcement, rule effectiveness, and clean up of existing regulations. A substantial portion of our training activities are related to ozone and CO problems. Virtually all of these activities will increase in FY 1991 as a result of CAA amendments. In the near term, states and locals will need to increase their own appropriations to match EPA's section 105 grant increases to implement new CAA requirements. In the longer term, the operating permit fees under Title IV should provide much of the funding required by states and locals for their air pollution control programs.

AIR -- ENFORCEMENT

SENATOR MIKULSKI: What was the agency's original OMB request? Why was it cut? Shouldn't enforcement be more of a priority?

ANSWER: The Agency's Fiscal Year 1991 Office of Management and Budget request for stationary source compliance was for an increase of 90 FTEs and $573,000 in contract funds. Of these amounts, 10 FTEs were in support of new requirements under pending Clean Air Act (CAA) amendments. The President's budget request is for an increase of 51 FTEs and $2,176,100 in contract funds. Considering that the vast majority of CAA amendment requirements will not be enforceable until 1992 and later and the difficult trade-offs that had to be made because of the nation's budget deficit, the stationary source compliance budget increase clearly reflects the high priority afforded to CAA compliance programs.

SENATOR MIKULSKI: Will the requested budget be adequate to fulfill the responsibilities of the Montreal Protocol?

ANSWER: Yes. The CFC program regulates 8 producers and approximately 14 importers. The budget request of 3 FTEs will be adequate to monitor compliance with the Montreal Protocol.

AIR QUALITY MONITORING

SENATOR MIKULSKI: How much does EPA estimate it will cost to complete and restore the national air quality monitoring network and when will this work be completed?

ANSWER: EPA expects to recommend that the state and local air pollution control agencies identify 20 percent of the monitors for immediate replacement and formulate a plan to replace the remaining instruments during the following four years. Assuming the availability of adequate funding at the state and local level, the strategy will result in the complete renewal of the network by the end of FY 1995. Since particulate matter (PM-10) samplers have a longer expected useful life, only a partial renewal of approximately 50% is anticipated within the 5-year period. Replacement will result in the following estimated costs:

Pollutant	No. of Monitors	Replacement Cost (1990 Dollars)
Ozone	740	$4.9 million
Carbon monoxide	481	$4.6 million
Nitrogen dioxide	277	$2.9 million
Sulfur dioxide	606	$6.4 million
PM-10 (50 percent renewal)	1064	$2.2 million

SENATOR MIKULSKI: How much is budgeted for this purpose in FY 1991? Will this funding level permit timely completion and restoration of the system?

ANSWER: The President's Budget for FY 1991 includes funding to begin to address these problems through grants provided under Section 105 of the Clean Air Act. Of the total request of $137,700,000 for state grants, $1,575,000 has been requested for the replacement and/or acquisition of ozone, carbon monoxide and PM-10 samplers.

As discussed above, the total costs for renewing the ambient monitoring network are estimated at approximately $21 million over a 5-year period, or an average of $4.2 million per year. These estimates are for the total cost of replacements; however, on a national basis Section 105 grants have historically supplied only about 40% of the costs of state/local control programs. Our budget for FY 1991 assumes that state/local sharing will continue at approximately the same rate. Based on these assumptions, the Section 105 grants to be allocated for FY91 will allow an adequate first year start for the replacement program.

SENATOR MIKULSKI: To what extent does the incomplete and outdated air monitoring system hinder the implementation of air pollution control programs?

ANSWER: The national air monitoring system is essentially complete; the equipment, as do all capital investments, needs renewal and replacement over time. The current network is not outdated, but should be replaced on a reasonable schedule. Irrespective of the age of air monitoring equipment, the data that are accepted for inclusion in the national ambient air monitoring data base must meet strict quality assurance and completeness requirements. The use of these quality data, therefore, could not and do not hinder the implementation of air pollution control programs. The use of older equipment may require more technical attention than new monitors; renewal of the network may then allow more effort to be devoted to other phases of the program.

INDOOR AIR QUALITY

SENATOR MIKULSKI: A major portion of the public's exposure to air pollution occurs indoors. In fact, in 1987 EPA ranked indoor air quality 4th among a list of environmental problems that poses risks to human health.

The FY 1991 budget proposes $5.5 million, an increase of $1.5 millon ($4.5 million for R&D and $1 million for policy and information activities). Yet indoor air research represents only 4.7% of overall air research ($95 million).

If most exposure to air pollution occurs indoors, rather than outside, why then does indoor air research account for less than 5% of the total air research budget?

ANSWER: The Agency conducts a comprehensive air research program that addresses both indoor and outdoor pollution. In 1986, Title IV of SARA specifically mandated a Federal indoor air quality research program and EPA's indoor air research budget was $2.3 million (total dollars). Since then, the indoor air budget has more than doubled to the $5.9 million (total dollars) level requested in FY 1991. This growth reflects EPA's commitment to addressing additional research needs in this area. However, this growth has also been balanced against competing research requirements established for the other portions of EPA's overall air quality research program.

STATE WATER QUALITY MANAGEMENT FUNDING

SENATOR MIKULSKI: The President's budget includes $16.5 million request for new cooperative agreements for water quality management. These grants will replace set-asides under the construction grants program which were eliminated due to the phase out of direct grants. The $16.5 million request is $3.5 million (17.5%) less than what the set-asides were in FY 90 ($20 million).

Why aren't you asking for at least as much as these set-asides provided in FY 90, namely $20 million?

ANSWER: The Agency's request for FY 1991 grant assistance to States consists of funding assistance for States under both Sections 106 and 104(b)(3). The request for FY 1991 Section 106 funding represents an increase of nearly $10 million from FY 1990 to partially offset the loss of grant funding previously available under the construction grant set-asides. The new request for $16.5 million under Section 104(b)(3), coupled with the increased request under Section 106, is intended to offset the loss of the set-asides.

SENATOR MIKULSKI: Given that the need for this assistance hasn't diminished since last year, how will the shortfall be compensated for?

ANSWER: The new request for $16.5 million under Section 104(b)(3), coupled with the increased request under Section 106, is intended to offset the loss of the set-asides.

SENATOR MIKULSKI: The budget does not state precisely how the funds will be awarded. The budget justification states that funds will be targeted to states that commit to achieving concrete results. How will you quantify this?

ANSWER: Cooperative agreements will be negotiated with States to cover specific activities, particularly complex, new activities that States must perform in addition to their base program functions. For example, funding for National Pollutant Discharge Elimination System (NPDES) permits, pretreatment and enforcement will be used for key activities such as complex new permits for combined sewer overflows, stormwater discharges, sludge disposal and hazardous and toxic wastes. Likewise, funding for water quality standards and monitoring activities will be used to adopt new State water quality standards for toxics, saltwater, and wetlands. At the time of application, States will be asked to identify quantifiable measures against which their progress will be tracked.

SENATOR MIKULSKI: Will all states that benefitted from the previous set-asides be receiving an equitable portion of these cooperative agreement monies?

ANSWER: The construction grant set-asides were available to all States. The $16.5 million will be available to NPDES and/or pretreatment States for activities related to NPDES permits, pretreatment and enforcement and to all States for activities related to upgrading State water quality standards and monitoring programs.

SENATOR MIKULSKI: How will these funds be allocated?

ANSWER: Funds will be awarded to States that agree to perform complex new activities in addition to their base program functions, and to establish measures to track the progress of those activities.

POLLUTION PREVENTION

SENATOR MIKULSKI: Your budget justification gives little idea of what the Office of Pollution Prevention has been doing since it was created. Can you describe how you have been spending the $6 million allocated to the Office thus far?

ANSWER: In FY 1989, the Pollution Prevention Program (PPP) allocated $0.8 million to salaries and expenses, $1.0 million to contract support, and $3.9 million to state grant funds. These funds supported a pollution prevention strategy of targeting areas of significant environmental risk. This strategy focuses on four targeted areas for our pollution prevention program: 1) Point source pollution; 2) Small and dispersed source pollution; 3) Municipal solid waste; and 4) Resource conservation.

Point source pollution is the traditional focus of EPA pollution control efforts since this area includes industrial facilities. PPP has taken both regulatory and non-regulatory approaches to point source pollution, and is seeking innovative approaches to dealing with traditionally regulated facilities. Small and dispersed sources, or non-point sources of pollution, have been targeted because of the threats posed by traditional agricultural practices and energy consumption patterns. PPP is promoting such practices as integrated pest management, sustainable agriculture, and alternative fuels. Municipal solid waste is a target because of the large volume of waste generated from this source and the potential problems resulting from landfills, incineration, and other treatment and disposal methods. Finally, resource conservation is a target because of the necessity to preserve our natural resource base and to foster sustainable development.

Broadly speaking, PPP, in targeting these areas for multimedia source reduction and recycling efforts, has sought to integrate prevention into Agency activities, and promote pollution prevention throughout all sectors of society. Within the Agency, PPP has focused on integrating pollution prevention into all aspects of the Agency's operations. These activities help strengthen the prevention ethic and provide an institutional basis for changing the Agency's focus from pollution control to pollution prevention. Among activities PPP has engaged in with other EPA programs are: analytical projects examining barriers to and incentives for pollution prevention, such as the feasibility of environmental labelling; helping individual Regional and Program offices develop strategies to target the four major target areas listed above; the development of training programs and modules for Agency personnel, such as permit writers; and integration of pollution prevention into regulatory development, through such activities as participation in the Agency's lead working group.

Outside the Agency, PPP has sought to promote pollution prevention activities in all sectors of society -- government, academia, industry, consumers -- by fostering cultural change and providing direct technical and financial support. Activities that support this goal include: administering the state grant program (the Pollution Prevention Incentives for States); developing and operating the Pollution Prevention Information Clearinghouse in conjunction with the Office of Research and Development; outreach through sponsorship of seminars and conferences, publication of educational materials, and production of a video on pollution prevention; participation in international discussions, such as meetings of the U.S./U.S.S.R. Joint Committee on Environmental Protection and workgroups on waste minimization and clean technologies through the United Nations Environment Programme and the Organization for Economic Cooperation and Development; and joint efforts with other Federal agencies, such as the development of a model community program with the Deptartment of Defense.

SENATOR MIKULSKI: Your budget calls for a doubling of OPP's funding to $8 million in FY 91. How will you use these funds to go beyond technical assistance projects and integrate pollution prevention into EPA programs?

ANSWER: Expanded resources and expertise in the Office of Pollution Prevention (OPP) will enable OPP to target its outreach efforts more effectively, participate in the Agency's policy development with regard to pollution prevention, and move ahead in incorporating pollution prevention into the full range of Agency activities. Some of the change from FY 90 reflects a reorganization within the Office of Policy, Planning and Evaluation which links pollution prevention to the strategic planning process within OPP. This will ensure that pollution prevention is properly integrated into both the media programs' and Regional Offices' strategic plans. This focus will be articulated in the Agency's Pollution Prevention Strategy which will be completed before the end of FY 90.

A multi-media approach is the cornerstone of our pollution prevention strategy. Currently, OPP provides direction and coordination for the Agency's cross-media effort which includes significant work in the Office of Solid Waste and Emergency Response, The Office of Air and Radiation, the Office of Research and Development, the Office of Water, and the Office of Pesticides and Toxic Substances. OPP conducts research into the social and technological aspects of pollution prevention and ways to implement incentives for pollution prevention, as well as cross-media pollution prevention-based analyses on approaches to industrial toxics, nonpoint source pollution, and energy and transportation issues. OPP will continue to work with media offices in the development of regulations which encourage waste minimization by the private sector. These regulations will provide economic incentives for industry to reduce, reuse or substitute rather than treat, store or dispose of hazardous wastes. Moreover, OPP has as a major objective the development and utilization of reliable indicators of pollution prevention and the implementation of a data-collection and evaluation strategy enabling EPA to measure progress in pollution prevention activities and to target future opportunities.

SENATOR MIKULSKI: The budget for pollution prevention grants goes down by 1/3 (from $9.3 million to $3 million) the sum available in FY 90. Why the reduction in this area?

ANSWER: The $9.3 million in the Pollution Prevention Program in FY 90 includes not only funding for state grants but salary, expense and contract support for workyears which were transferred into the Office of Pollution Prevention in FY 91 as a result of a reorganization in the Office of Policy, Planning and Evaluation.

EPA actually requested $3 million for pollution prevention state grants in FY 90. An additional $4 million in the form of a Congressional add-on gave EPA a total of $7 million (before sequestration and Section 517 reductions) for these state grants. In addition, $3 million in state grant funds were carried over from FY 89, enlarging the available pot of funds to approzimately $10 million in FY 90. The request for FY 91 is $3 million, the same amount as requested in FY 90. Given the recommendation to award $6.8 million in this fiscal year, approximately $3.2 million will be available to carry over in FY 91, ensuring a significant sum for another national competition.

SENATOR MIKULSKI: Have the FY 90 grant awards been made? If so, what have the grants been awarded for?

ANSWER: Currently we are administering 14 grants totaling approximately $3,925,450 for 13 state agencies and one interstate organization. These grants are for what might loosely be termed program development: that is, for establishing or expanding basic programs that engage in technical assistance, training, outreach, and data-related activities. As of this date, we are recommending funding for an additional 25 state agencies, totaling approximately $6.8 million, to be used for the expansion or establishment of programs and for demonstration projects. Demonstration projects have been added to our focus because models of successful pollution prevention strategies, techniques, and practices are vital to help determine what does and does not work. We consider it part of our mission to share this valuable information.

We anticipate a third round of grants beginning in summer or early fall, with awards made in the first half of FY 91.

SENATOR MIKULSKI: How do you intend to measure the effectiveness of federal and state pollution prevention programs and how will you be able to measure whether we are reducing pollution and reaching the administrator's goal of 25% waste reduction by 1992?

ANSWER: The effectiveness of federal and state pollution prevention programs is best measured by reductions in industrial waste generation and chemical releases over time. The Agency intends to measure progress in the industrial arena through implementing mandatory pollution prevention reporting in the Toxics Release Inventory and using pollution prevention information in the RCRA Biennial Report. Chemical releases and waste generation by industry can be tracked over time using these sources.

In the Municipal Solid Waste area where the Administrator has set a goal of 25% source reduction or recycling by 1992, the Agency is examining ways to measure reductions. As with industrial waste, source reduction is more difficult to measure than recycling since it involves changes in production processes at the facility level. EPA is still determining how best to measure source reduction on a national scale. For recycling, EPA intends to use national composition studies of the municipal solid waste stream, and estimates of the recycling rates for paper, glass, aluminum, plastics, and other categories from available sources such as trade associations and literature.

SENATOR MIKULSKI: What is the total dollar amount in the FY 91 budget request for pollution prevention? Please provide a breakout for FY 90 and FY 91.

ANSWER: The total dollar amount for the Agency's pollution prevention program in the FY 91 budget request is $82.3 million. A chart which details the amounts requested for each program office, as well as the FY 90 figures, follows.

FY 1991 PRESIDENT'S BUDGET
SUMMARY OF MAJOR PROGRAM INITIATIVES

(Dollars in Millions)

POLLUTION PREVENTION *	FY 1990 FTE	FY 1990 CURRENT ESTIMATE	FY 1991 FTE	FY 1991 PRES. BUDGET	EXTRML. FY 1990 CURRENT ESTIMATE	EXTRML. FY 1991 PRES. BUDGET	S&E FY 1990	S&E FY 1991
OPPE	19.1	$5.5	44.7	$7.6	$4.5	$4.8	$1.0	$2.8
ORD	16.0	$6.0	17.7	$11.1	$5.2	$9.9	$0.8	$1.2
OSWER	19.8	$5.9	26.1	$7.1	$4.8	$5.6	$1.1	$1.5
OPTS	169.7	$17.5	189.9	$20.8	$8.5	$9.9	$9.0	$10.9
OAR	77.3	$13.9	99.8	$23.1	$9.9	$16.3	$4.0	$6.8
OW	76.2	$9.5	72.8	$12.6	$5.5	$8.7	$4.0	$3.9
TOTAL	378.1	$58.4	451.0	$82.3	$38.4	$55.2	$20.0	$27.1

*Includes funding for projects resulting from the competitive 2% set-aside program.

- OPPE - Includes Regional FTE (9.4 in 1990 + 20.0 in 1991) and State Grant Funds.
- ORD - Includes resources for technical research in accordance with EPA's pollution Prevention Research [illegible] as well as Regional funding for 2% set-aside projects ($3.3 M in 1991).
- OSWER - Includes research for Hazardous Waste Pollution Prevention Activities (developing a report to Congress, and incorperating responsibilities into permitting) and for Municiple Waste Pollution Prevention activities.
- OPTS - Includes all resources for the new Chemical Rewiew Program (168 FTE in 1991) and portion of the Pesticides Liscencing Program.
- OAR - Includes resources for the Clean Fuels Program and elements of Global Warming & Strat Ozone Programs.
- OW - Resources are for Effluent Guidelines and Municipal Wastewater Treatment.

RESEARCH AND DEVELOPMENT-EQUIPMENT

SENATOR MIKULSKI: The budget request ignores need for substantial investments in new equipments. About $8.5 million is included for FY 91. Yet EPA's own estimate of equipment needs is $88 million for FY 91. Poor equipment leads to poor quality research and weakens EPA's ability to develop policies in a timely manner.

An article in "Inside EPA" stated that "EPA has already reached a point at which more than half of its scientific and technical equipment is obsolete -- unable to perform complex, new analyses that the latest available technologies can provide." This is a pretty sorry state! Although EPA is increasing its science mission, it is not asking for the bucks needed to support the infrastructure -- why? Why isn't good equipment more of a priority? Does EPA have a plan in place to upgrade its laboratories?

ANSWER: The upgrading of obsolete scientific equipment has been recognized by the Agency as a major priority. So much so, that it was reported as a major EPA internal control deficiency in the Agency's Annual Report to the President in FY 1988 and FY 1989. Using an industry standard of seven years to replace scientific and technical equipment, approximately 60% of scientific equipment inventory for the Office of Research and Development needs to be replaced. To better manage and meet this need, ORD conducts an annual review of its scientific equipment inventory to identify those items that need to be replaced. This process also identifies ORD's need to purchase new state-of-the-art equipment.

Since FY 1988, ORD has increased its R&D investment to upgrade its scientific equipment inventory. In FY 1988 and FY 1989, ORD invested $2 million annually. In FY 1991 the investment increased to $11.6 million. The FY 1991 President's Budget reflects a request for $11.6 million to purchase equipment for new facilities and further the upgrading of ORD's scientific equipment inventory.

LONG-TERM RESEARCH

SENATOR MIKULSKI: You are requesting $79.5 million for long-term research, a 38% increase over FY 90. The R&D program is now focusing on long-term understanding of environmental problems rather than just short-term regulatory needs as in the past. How are priorities for the long-term core research program established?

ANSWER: EPA's core research program was developed in response to the 1988 Science Advisory Board's (SAB) report: *Future Risk: Research Strategies for the 1990s* in which the SAB recommended that EPA "reshape its strategy from end-of-pipeline controls to preventing the generation of pollution". To support this new strategy, EPA should "plan, implement, and sustain a long-term research program." EPA's Office of Research and Development (ORD) developed a draft proposal in 1989 containing ideas on what core research is, the types of core research that need to be developed, and the relative priorities of the various components. The proposal was shaped by the SAB's recommendations and was primarily risk-based, i.e., the three prime areas of research ORD chose to focus on were Ecological Risk Assessment, Health Risk Reduction, and Risk Reduction. An additional component of the plan was the development of a Research Grants and Centers Program. This proposal -- *Protecting the Environment: A Research Strategy for the 1990s* --

was reviewed by the SAB's Research Strategies Advisory Committee and EPA's Research Advisory Council, and changes made based on their comments. A revised version in being developed in 1990.

The FY 91 core research priorities have been guided by this document and the recommendations of the SAB. Major components of the core research proposal that are of immediate high priority to EPA, and have been recommended for funding in FY 91 are: (1) The Environmental Monitoring and Assessment Program (EMAP), a part of the Ecological Risk Assessment Program, was proposed as a unified, comprehensive effort and will include a status and trends monitoring program for major ecological resources; (2) the Pollution Prevention component of the Risk Reduction Program; (3) an expanded Investigator-Initiated Grants Program; and (4) research to improve health risk assessments, with a focus on human exposure research.

To plan the implementation of the core research program in FY 92 and beyond, a new Research Committee within EPA was established -- the Multi-Media Planning Group -- composed of scientists from EPA's program offices, EPA Regions and ORD. A strategic plan for each of the core program areas (health risk assessment, ecological risk assessment, and risk reduction) has been prepared by this group to help ensure the scientific merit of the research, as well as the relevance of the plan to EPA's mission. Three SAB committees -- the Environmental Health Committee, the Environmental Engineering Committee, and the Ecological Processes and Effects Committee -- have been asked to assist EPA in setting priorities within each program area and in ensuring that no major research component has been left out. The overall core research plan, revised to reflect committee comments, will then be reviewed by the SAB's Research Strategies Advisory Committee and EPA's Research Strategies Council, chaired by the Deputy Administrator. These groups will assist EPA in setting overall priorities in the core research area. Based on the reviews and comments, the strategic plans will be revised, implementation priorities will be set by EPA, and specific research plans and protocols prepared to implement the next stage of the core research plan. The core research plan will be reviewed annually to help ensure that the goals and strategies set forth in the plans are being met.

SENATOR MIKULSKI: What is the basis for selecting the outside research projects to sponsor through Exploratory Research Grants?

ANSWER: Fully developed applications submitted to the Exploratory Research Program need to meet the requirements of three levels of review: administrative, scientific and relevance reviews are applied to each application received. The administrative review is performed by in-house personnel to see that each application meets legal and administrative requirements, and that the applicants are eligible under relevant statutes. The scientific review, which constitutes the principal decision mechanism for support, is provided by external peer review panels, whose membership is drawn from academia, the private sector and Federal, State or municipal government. No panel may have more than 20% of its members from EPA. The peer panels recommend approval or disapproval of applications for support by the Exploratory Research Program, and rank those recommended for funding. Finally, personnel within ORD provide relevance reviews of approved applications to determine their relevance to environmental abatement and control. Applications are generally funded in order of their ranking by the scientific peer review panel within the funds budgeted. Applications may be passed over if the relevance review indicates that the work, while scientifically and technically competent, has no present or potential future relevance to environmental prediction, abatement or control, the work duplicates other work being conducted in the Agency or elsewhere, or for reasons of program balance. An imbalance of the grants program would occur if a large number of the top-ranked applications were all on the same topic, or on a topic already heavily supported by the Exploratory Research Program.

SENATOR MIKULSKI: How is the long-term core research program coordinated with the research being performed by other Federal agencies, private institutions, and other countries?

ANSWER: Because of the scope of the core research program, EPA realizes the necessity of coordinating its research with that of other Federal agencies, other countries, and private institutions. One of the major components of the core research program, the Environmental Monitoring and Assessment Program (EMAP), has significant research elements that have been developed jointly with other Federal agencies and private institutions. EMAP will provide baseline information that will enable the Agency to evaluate the effectiveness of its prior activities. Other agencies with ongoing monitoring programs will be fully involved. The implementation of EMAP will provide a cooperative, multi-agency monitoring network for assessing ecological status and trends.

Working cooperatively with the National Oceanic and Atmospheric Administration, for example, EPA will begin monitoring coastal and marine systems in FY 1990. Monitoring in northeastern forests will begin in FY 1990 in conjunction with the U.S. Forest Service-Forest Health Monitoring Program. EPA is currently negotiating with the U.S. Geological Survey and the U.S. Department of Agriculture's Agricultural Research Service to conduct joint monitoring of surface waters and agroecosystems, and we will work cooperatively with other Federal and state agencies to phase in monitoring programs for other ecosystems as scientific feasibility, urgency of environmental issues, and funding dictate. One key component of EMAP is the development of new and improved statistical methods to detect changes and identify environmental patterns resulting from pollutants and environmental stressors. Research on environmental statistics will be conducted through cooperative agreements with the university community. A cooperative agreement has been established with Oregon State University to conduct research on statistical sampling design.

In the core health risk assessment program, EPA coordinates extensively with other Federal agencies, particularly the National Institute of Environmental Health (NIEHS), the Agency for Toxic Substances Disease Registry (ATSDR), the Food and Drug Administration (FDA), and the National Institute for Occupational Safety and Health (NIOSH). EPA sits on the board of NIEHS, as well as on a committee with NIEHS and ATSDR to coordinate research into the health effects of toxic substances. EPA is a member, along with other Federal agencies, of the National Cancer Advisory Board. EPA has also developed a cooperative agreement with the National Academy of Sciences to set up a Committee on Risk Assessment Methods (CRAM) that will include EPA and other Federal agencies (FDA, ATSDR, NIOSH, and the Consumer Product Safety Commission) with an interest in risk assessment. EPA has used, and will continue to use, these associations as mechanisms to coordinate health research, particularly the core health program, across the Federal government. As an example, EPA is working cooperatively with the National Center for Health Statistics and other agencies on a health survey, the National Health and Nutrition Survey (NHANES III), which will enable EPA to identify emerging environmental health problems that should receive further study and to analyze data on exposures to evaluate the effectiveness of existing environmental controls.

Internationally, EPA has bilateral agreements with more than 50 countries and participates in a number of multi-lateral agreements through organizations such as the World Health Organization, the European Community, and the United Nations Environment Program. Through these agreements, EPA has developed extensive networks at both the scientific and policy levels. These networks are the primary tool for coordinating the core research program internationally. For example, EPA is working with Polish researchers to develop a collaborative epidemiologic study and will also host a joint workshop in the fall on human health risk assessment. Many of the projects conducted under these agreements will build upon and supplement EPA's core research program.

SENATOR MIKULSKI: How will the research help EPA develop better environmental measures for its program activities so that we know what results we are buying with our environmental dollars, and so that we can determine whether our regulatory programs are working?

ANSWER: We are currently facing a new generation of environmental and public health problems, the result of continuing, persistent, and cumulative pollution, and the new focus on preventing versus controlling pollution. Addressing these complex problems requires a major shift in EPA's overall approach to environmental protection, and in our strategy for generating the knowledge necessary to create and implement environmental protection programs. EPA's core research program, in conjunction with the research activities of other agencies, will help us to evaluate the effectiveness of our environmental protection programs. The core research program is aimed at advancing the basic understanding of pollution, its effect on ecological resources and human health, and how to control and prevent it. Without these advances, we would most likely implement solutions that would ultimately be more expensive and less effective than possible.

The core ecological risk assessment program has been designed to enable us to understand the environment at the system level. The program will assist in evaluating the Agency's aggregate effectiveness in ecological protection, and in dealing with system-level stresses like global change, wetland destruction, eutrophication, and acidification. As discussed in the previous responses, the Environmental Monitoring and Assessment Program (EMAP), a key part of the core ecological risk assessment program, will monitor the status and trends in ecological systems that are at risk from multiple stresses. EMAP will serve to alert us to potential large-scale ecological changes, so that we can take action to prevent them from developing into disasters. The program will also supply a rich data base with which to evaluate the effectiveness of our environmental policies and regulations in safe-guarding our environment.

As part of this core research program, EPA is conducting research to identify and develop ecological indicators, or measures of ecological condition, and will host an international conference in October 1990, on ecological indicators. Ecological indicators are measures that define environmental stress, pollutant exposure, or ecological response, and that collectively describe ecological condition. Indicators in two categories will be developed within the core ecological risk assessment program : (1) response indicators, which quantify the response of ecosystems to anthropogenic stress (e.g. productivity, reduced function) and (2) exposure indicators, which show whether ecosystems have been exposed to pollutants, habitat degradation or other causes of poor condition (e.g., ambient pollutant concentrations, biomarkers, measures of habitat condition). Once such ecological indicators are developed, they will serve as useful measures of the progress of our environmental protection programs.

In the core health risk assessment area, research is being proposed that will enable EPA to identify emerging health problems and to analyze data on exposures to evaluate the effectiveness of existing environmental controls. A human exposure initiative is proposed that will provide an integrated approach to exposure assessment. The initiative will determine human exposure to a large number of environmental pollutants (acid aerosols, reactive organics, trace metals) for which exposure information is lacking. Measurement programs will be expanded to include more chemicals, and regular monitoring of human exposure on a regional basis will begin. This will provide a comprehensive data base on exposure for use by the Agency and the environmental community. Data will be used to identify high-risk chemicals, monitor nationwide trends and regional differences in human exposure and activity patterns, and assess the effectiveness of regulations.

EPA is working with other agencies on the third series of studies conducted by the National Center for Health Statistics, the National Health and Nutrition Examination Survey (NHANES III). The goals of the survey are to estimate the prevalence of disease and functional impairment; to provide accurate data on the distributions of health characteristics; and to identify new risk factors for disease and contribute to an understanding of disease etiology. These data will be linked to various biological measures of exposure and will allow an analysis of the relationship between these functions and possible environmental factors.

In the core risk reduction area, there is a need for research to support pollution prevention efforts by identifying trends in industry, consumer behavior, market characteristics, new products and process introductions, and changes in pollution management conditions. Additionally, there is a need to develop standardized tools that allow comparative risk assessments in differing applications, quantification of all economic costs and benefits of pollution prevention efforts, and standardized assessments of environmental costs and benefits of potential actions. Future long-term risk reduction research will include research that evaluates the relative effectiveness of alternative pollution prevention strategies.

The Agency's core research program is vital to understanding the fundamental mechanisms of pollution and pollution control and the effects of this pollution on human health and ecological systems. Through the research being conducted today in health risk, ecological risk and risk reduction, we will be better able to measure the costs and benefits of our environmental protection activities and to plan new, more effective strategies for the future.

MEDICAL WASTE TRACKING

SENATOR MIKULSKI: After all the noise about medical waste recently, the budget justification refers to that issue in only one instance, and details no specific activities the agency is undertaking in this area. Has the medical waste problem gone away? If not, why is there no mention of it in the budget?

ANSWER: The medical waste problem continues to be a concern to the Agency, and significant progress has been made. New York, New Jersey, Connecticut, Rhode Island, and Puerto Rico have been implementing the demonstration program for nearly one year. The Agency will soon release the first interim report to Congress. The second interim report to Congress is scheduled to be completed this summer. In addition to the reports to Congress, our 1991 budget request narrative notes that in 1991 the Agency plans to provide technical support, training, and outreach assistance to states involved with the medical waste tracking demonstration program.

The 1991 request includes 16 workyears and $2.4 million for medical waste activities.

SENATOR MIKULSKI: The budget makes no mention of the medical waste tracking demonstration. What is the status of this demonstration program and has a preliminary assessment been conducted?

ANSWER: A medical waste demonstration tracking program has been established. The program includes segregation; packaging and labeling requirements; a standard tracking form; and recordkeeping and reporting requirements. Program participants are: New York, New Jersey, Connecticut, Rhode Island, and Puerto Rico The program has conducted over 300 inspections of handlers, resulting in seven enforcement actions and penalties assessed for over $300 thousand.

The Agency is currently conducting an assessment of the demonstration tracking program The Agency will provide a preliminary assessment of this program in the second interim report to Congress on medical waste (due this summer). A more complete assessment of the demonstration tracking program will be included in the final report to Congress on medical waste (due in 1991).

BEACH CLEANUP AND MONITORING

SENATOR MIKULSKI: Can you give me an update on how the $500,000 appropriated in FY 90 for monitoring and clean up of beaches in New Jersey and Maryland is being allocated and what the status is of those efforts?

ANSWER: EPA will allocate the $500,000 Congressional add-on provided in FY 1990 "...for grants to State sponsored and local groups for a demonstration program to involve local groups in monitoring and cleaning up medical and other wastes on the New Jersey and Maryland beaches," as directed in the Appropriations Report Language. Specifically, the Agency has identified the following priority activities in this effort:

- Development of a statistical sampling program for New Jersey and Maryland, which will be applicable to other states as well. The program will involve monthly sampling of two beaches in New Jersey and two beaches in Maryland as well as statistical analysis of the data. This activity will also include collection of meteorological data.
- Development of poster boards on beach debris and cleanups.
- Monitoring and enforcement programs for New Jersey beaches.
- Monitoring and enforcement programs for Maryland beaches.
- Development of school curriculum for Kindergarden through grade 12.
- Development of brochure on beach debris.
- Development of Public Service Announcement on beach debris.
- Development of recycling initiatives in New Jersey and Maryland.
- Development of education materials for home needle users.

Procedures and processes to distribute the grant funds to the States of Maryland and New Jersey are currently being developed.

RADON

SENATOR MIKULSKI: How many states have developed and implemented radon programs? How effective have EPA and the states been in their efforts to get people to test and mitigate for radon in homes, schools, and workplaces?

ANSWER: Since 1985, when indoor radon gas was identified as the second leading cause of lung cancer in the United States, EPA has formed a partnership with the states to develop state indoor radon programs. State programs have developed at different rates and with a variety of program designs, depending on several factors including resources and perception of the problem. Many states continue to respond to citizen requests for information by using EPA publications. Several others, however, have moved beyond provision of information to the public to include problem assessment, training and mitigation demonstrations. Five states -- Florida, New Jersey, Pennsylvania, New York and Maine -- have developed comprehensive radon programs.

The Indoor Radon Abatement Act of 1988 authorized the development of the State Indoor Radon Grant (SIRG) program. This program will support the development and implementation of effective state programs for the assessment and mitigation of radon. Forty-eight (48) states, the District of Columbia, Puerto Rico, and two (2) territories have applied for grants for FY 1990. The programs will include development of basic and more advanced radon response capabilities including activities in program management, public information, problem assessment and problem response. The SIRG program is designed to encourage each state to develop each of these elements to a level which is appropriate for the radon problem in the particular state.

EPA has in the past focused on providing information about radon risks, testing and mitigation to the states and the public. This approach has been very successful in increasing awareness of radon. However, only about 3-5% of the public have tested their homes for radon. EPA is now expanding its program to include activities which will motivate testing and mitigation of radon. For example, EPA worked with the Advertising Council to create a national TV and radio campaign to encourage testing. EPA is also initiating activities to measure and mitigate radon in schools and workplaces. These EPA activities, and the continued partnership with the states through the SIRG program, will lead to increased radon testing and mitigation.

SENATOR MIKULSKI: The agency is researching most effective methods of abating radon in schools. Schools are unique because of their size, air handling systems, etc. EPA is currently spending $300 thousand for research on radon mitigation in schools. What have you found?

ANSWER: Research has shown that subslab depressurization (typically the most effective technique for radon mitigation in houses) can be applied successfully in schools where the slab is underlain with a clean, coarse layer of aggregate. However, because of their large sizes, schools often have interior wall supports that penetrate that slab. These subslab barriers will typically limit the area that can be reached by a subslab suction point and, as a result, will increase the complexity of the mitigation system. Further research is needed to ascertain the most cost effective designs for these systems to properly mitigate radon in schools.

Research has also shown that heating, ventilating, and air-conditioning (HVAC) systems in schools can have a major effect on the relative pressure in a school and, consequently can affect radon entry. If a HVAC system is designed and operated to maintain a positive pressure in the building, radon entry can be reduced while the HVAC system is in operation. However, further research is needed to characterize the extent of HVAC influence on radon in schools.

SENATOR MIKULSKI: Have you determined whether the unique characteristics of schools alter the effectiveness of previously examined mitigation techniques?

ANSWER: EPA's current research program on radon reduction in schools is focusing on the applicability and effectiveness of subslab depressurization in school buildings. Projects are studying the regional applicability of this mitigation technique based on differing construction practices, geologies, and climates.

EPA's initial experiences in schools have indicated that, although subslab depressurization will be applicable in many schools that have subslab aggregate, certain building characteristics will limit the applicability of subslab depressurization and result in a "difficult-to-mitigate" school. Characteristics of schools that make them different from homes and/or can complicate mitigation include: absence of a subslab aggregate, large exhaust fans and inadequate make-up air, return-air ductwork underneath the slab, unducted return-air plenums in the drop ceiling that are open to the subslab, and subslab utility tunnels.

The School Evaluation Program is evaluating the applicability of home mitigation techniques in schools. This includes evaluating the effectiveness of heating, ventilating, and air conditioning (HVAC) systems in controlling radon levels. Schools with HVAC systems can reduce radon entry by maintaining a positive air pressure within the building.

It is important to note that radon control with a HVAC system implies that the system performs its function of conditioning the air space and supplying adequate ventilation while at the same time controlling radon entry. Our initial field investigations of schools with elevated radon levels have revealed problems from broken to faulty systems and, in most cases, improperly operated systems. To be effective as a radon control mechanism, these systems need to be evaluated, repaired, and maintained.

SENATOR MIKULSKI: Do you know at this point approximately how expensive it will be to mitigate radon from a school?

ANSWER: Since radon mitigation experience in schools is still very limited, cost estimates can only be based on a few experiences, and, therefore, some uncertainty still exists. It is estimated that, where applicable, installation of a subslab depressurization system by an experienced private mitigator would cost about $1,500 or less per 1,000 square feet in most cases and would depend on the permeability of the material underneath the slab and on the presence and type of subslab barriers. Operating and maintenance costs can not be ascertained at this time.

Radon mitigation involving a retrofit of the heating, ventilating, and air-conditioning (HVAC) system, could be much more cost effective than a subslab depressurization system. Further research is needed to characterize the extent of HVAC influence on radon in schools.

SENATOR MIKULSKI: $1 million was provided in FY 90 for a survey of radon in schools. Can you update us on the status of that survey? When will it be initiated and when will the results be in?

ANSWER: In FY 90, EPA plans to complete design and pre-test work on the National Schools Radon Survey. During the 1991 fiscal year, EPA plans to conduct the Survey which will be designed to oversample areas with higher expected radon potential, based on the radon potential map.

A pre-test will be conducted this autumn, and the full Survey will begin later this year. Testing will be completed during the 1990-1991 heating season. Results will be available by the end of fiscal year 1991.

TITLE III COMMUNITY-RIGHT-TO-KNOW

SENATOR MIKULSKI: The budget for the community right-to-know program is going down in your budget request by 12% -- from $20 million to $17.8. Why the decrease?

ANSWER: This decrease in the Office of Pesticides and Toxic Substances (OPTS) portion of the Title III budget for Section 313 activities is primarily attributable to the fact that the Congressional add-on for Emergency Planning and Community Right-to-Know (EPCRA) activities included in the FY 1990 budget are not continued in the FY 1991 President's budget request.

The two million dollar reduction represents a $1,486,000 reduction in the Abatement Control and Compliance appropriation, which reflects the absence of FY 1990 add-on, and a $943,000 reduction in Salaries and Expenses. 1988 through 1990 represented the start-up years for the Toxic Release Inventory (TRI) program. The budgets for these years reflect the increased costs associated with program initiation. The FY 1991 budget represents a transition from a program initiation phase to a program operating phase. In budgeting for the operating phase we will account for greater economies and efficiencies in processing data and maintaining the Inventory.

SENATOR MIKULSKI: How would you assess the success of this program? Is it working the way that it was intended to?

ANSWER:

Community Right to Know/The Toxic Release Inventory:

One of the measures of success for this program is the sizeable impact which the availability of information on toxic chemical releases has had on the industrial community, state and local governments, and the public.

Prior to the implementation of the Community Right-to-Know provision of SARA, information related to the presence and releases of toxic chemicals in the community was scarce and in most cases unreliable. The availability of such information was at the discretion of the manufacturing and processing facilities and in most communities was not passed along to the affected public. Since the release of the 1987 Toxic Release Inventory (TRI) data, that situation has changed dramatically and if success is to be measured by availability and use of the TRI data then we can declare the program successful. EPA would like to go one step beyond the availability and use measure however and suggest that success be measured by impact. TRI data has had a major, positive impact on the way that industry does business, on the way that states and local communities begin to identify and establish priorities and in the basic way that the public interacts and evaluates the industrial community.

The industrial sector has begun to take a very close look at their toxic chemical emissions and the processes by which they are generated. Numerous companies have come forward, and based on a facility evaluation, have committed to significant reductions in their emissions, some as great at 95% over the next four years. Other facilities which cannot commit to specific reduction numbers at this time are looking for ways to reduce emissions, switch to safer substitutes, or in the long run, develop better, more efficient production processes.

State and local governments are using the TRI data as a basis for community planning. They are using the data to establish a baseline to enable them to take the first step in evaluating the industries in their area and to assist in making informed decisions about acceptable risk in their communities. Other states, such as Massachusetts, Oregon and Minnesota, are using the TRI data to measure progress in implementing state-specific facility planning efforts.

The public is using the TRI data in many ways, ranging from individual efforts to influence a specific facilities progress in the area of pollution prevention to more global uses such as identifying and targeting the top 500 emitters of toxic chemicals in the U.S. Perhaps the most important result of the TRI is a more open and expanded dialogue between industry and the public which they serve.

Emergency Planning and Response:

The Agency is pleased with the accomplishments which the Title III program has made since it was enacted in 1986. Title III is a unique and complex program that involves coordination among all levels of government, the private sector and the general public. Primary responsibility for preparing and responding to the chemical emergencies is at the state and local levels. The Federal role is to provide national leadership, coordination, and support of State and local programs. The Agency has worked closely with state and local governments to support State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) in their efforts to ensure that communities are prepared to respond to chemcial emergencies. During the past three years, the Agency in collaboration with other Federal agencies of the National Response Team has provided the necessary guidance, technical assistance, training, and support for implementing Title III activities. Some of the program's significant accomplishments include:

o All regulations mandated by Title III in the areas of emergency planning, notification, and Community Right-to-Know have been completed. Additional regulatory activities to clarify or expand the program are underway.

o A total of 56 SERCs and 3,800 LEPCs have been designated. More than 50,000 individuals are members of LEPCs, and over 30,000 fire departments are involved in implementing Title III planning and preparedness activities.

o Most local communities have completed the initial stage of their emergency plans and are now prepared to begin the implementation and improvement phase.

o A user friendly personal computer information management system has been developed to assist SERCs and LEPCs in managing the large volume of data generated by Title III's reporting requirements. The system, Computer Aided Management of Emergency (CAMEO), can also be used in planning for and responding to chemical accidents.

o A variety of tools and materials have been developed to provide SERCs and LEPCs with guidance to help the public understand and begin reduction of risks involved with hazardous chemicals.

o An enforcement program designed to enhance cooperation with states and encourage industry compliance with the notification and reporting requirements of Title III is being implemented.

SENATOR MIKULSKI: Is the public taking advantage of the data that is being made available through the National Library of Medicine? How is the public making use of the data?

ANSWER: Use of the section 313 data on the National Library of Medicine's TOXNET system has surpassed EPA's initial expectations. In the nine months since the data came on-line, the TRI file has accounted for almost 5,000 connect hours of use. 132,328 searches have been conducted, and over 234 million characters have been printed or downloaded. TRI/TOXNET usage has approximately equalled the usage of a well-established NLM database, the Hazardous Substances Data Bank (HSDB). Given the fact that TRI is a new database, these results have demonstrated a widespread public interest in the data. Furthermore, rough demographic information maintained by NLM indicate that the usage of the data has been by the entire user community (individuals, press, environmental groups, industry, government, academic institutions).

In addition, the response to EPA's efforts to make the data available in a number of other ways has also demonstrated widespread public interest. In FY 1989, for example, EPA received over 1,800 requests for TRI data (ranging from one form to 3,500); almost 50% of these requests were made by individuals, non-profit organizations, press, and academic institutions. Also, EPA made a magnetic tape version of the entire database and state-based computer diskettes available to the public. There has been substantial use of the data in these formats. Microfiche copies of each state's data have been sent to the 1,400 Federal Depository Libraries and to approximately one library in each county in the country (3,000 counties). Finally, a CD-ROM (Computer Disk - Read Only Memory) version of the data will be available shortly.

The TRI data are being widely used by the public for a number of purposes, including:

- to enable citizens to become knowledgeable of facilities and chemicals stored and/or released in and around their communities, and to use this knowledge to effect positive environmental change,
- to provide information to be used by citizens' groups in mobilizing national and community concern regarding important toxics issues, and
- to provide valuable input for community planning and economic development decisions.

Examples of these activities include:

At the national level, the Natural Resources Defense Council and the National Wildlife Federation have analyzed the TRI data, highlighting the largest sources of releases of concern and bringing public pressure to bear in fostering pollution prevention.

Groups have also been active at a more local level. Citizens groups in the Silicon Valley area in California have organized a campaign to push for commitments from companies to lower emissions of ozone destroying chemicals identified through TRI.

Residents of Asheville, North Carolina used TRI information as a convincing illustration of their concerns about water pollution, rejecting a referendum for new development pending resolution of their concerns.

Citizens in Lima, Ohio were able to convince state officials of the need for additional environmental monitoring based on TRI data on releases of carcinogenic chemicals in their area.

Citizens for a Better Environment developed a report detailing the close proximity of facilities using, producing or storing toxic chemicals to low-income, minority neighborhoods in Richmond California. One of the recommendations of the report was to establish buffer zones between residential areas and these facilities. This recommendation is being pursued at this time.

TITLE III COMMUNITY RIGHT-TO-KNOW

SENATOR MIKULSKI: How much does it cost the public sector to comply with reporting requirements on an annual basis and would you say we're getting our money's worth?

ANSWER: EPA spends approximately $11 million per year for TRI management and outreach.

There is general agreement amongst the public interest and industrial communities, as well as within EPA, that TRI has had an enormous impact on the management of toxic chemicals, and that these changes are clearly for the better. We are beginning to see reductions in toxic chemical releases, more efficient use of materials in commerce, and a more active focus on pollution prevention. Although it is impossible to precisely quantify these impacts, EPA feels strongly that the public is indeed "getting their money's worth" from TRI. Industries are using TRI data to better identify both the potential dangers and actual costs of generating toxic wastes, and to set priorities for waste reduction, often saving themselves money in the process. TRI -- and more broadly, the entire EPCRA framework -- are aiding in accident prevention and better response when accidents do occur, resulting in savings that are incalculable. Lastly, the public's fundamental right-to-know is well-served by the entire TRI system, a benefit which has no clear-cut price tag.

SENATOR MIKULSKI: How would you rate industry compliance with the reporting requirements?

ANSWER: According to an EPA survey of non-responders the rate of compliance for the 1987 reporting year was approximately 66%. Similar survey data is not available for the 1988 reporting year but we anticipate that the general compliance rate has increased. EPA has put a great deal of effort into industry outreach and enforcement actions in these early years and compliance, especially by the chemical related industries, has been good.

SENATOR MILKULSKI: Why is your enforcement budget decreasing by 4%?

ANSWER: The overall budget decrease for Title III Community Right to Know enforcement in the FY 1991 President's Budget request reflects several trends within segments of the program. The decrease in the TRI technical enforcement budget is attributable to the fact that the FY 1990 Congressional add-on for EPCRA activities is not continued in FY 1991. The FY 1991 budget provides sufficient resources for maintaining an effective enforcement program. In the legal enforcement area there is actually a requested increase within the Enforcement Policy and Operations program element of 14 FTE (12 in the Regions and 2 at Headquarters) at a dollar level increase of approximately $700,000. This increase is offset, however, by decreases within the technical enforcement budget.

DRINKING WATER ASSISTANCE TO SMALL COMMUNITIES

SENATOR MIKULSKI: EPA is cutting assistance to small communities to comply with Safe Drinking Water Act requirements, at a time when federal mandates are increasing. The program supports rural water training and technical assistance to rural water systems. The program is intended to promote compliance with the Safe Drinking Water Act and to aid small systems in their ability to generate new revenue sources. You plan to reduce the budget for "special studies and demonstrations" by $3.7 million -- down to just $1 million. At a time when safe drinking water requirements are increasing, why are you decreasing the budget for this program?

ANSWER: The Rural Water Associations (RWA) and Rural Community Assistance Programs (RCAP) we fund are essentially self-supporting entities, funded by member dues and fees for the training sessions they present and other services. The premise in funding these programs is that EPA's assistance acts as a lever for a more effective commitment from these grass roots organizations, not as a substitute for self-help.

SENATOR MIKULSKI: What is the authorized level of funding for technical assistance to small public water systems?

ANSWER: The funding authorization for the National RWA and RCAP programs lies in the Safe Drinking Water Act's Section 1442(b)(3) for EPA. The funding authorization for this subsection is contained in the general program authorization, Section 1442(f). The overall level specified for FY 1991 is $38,020,000.

There is a separate authorization for EPA to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance (Section 1442(g)), specified at $10 million for FY 1991. However, EPA has not used this authority to fund grants or cooperative agreements.

SENATOR MIKULSKI: Isn't it a cost effective means of assuring small systems compliance?

ANSWER: We believe all efforts to promote voluntary compliance and self-policing among water systems, efforts to give systems the knowledge and skills to help themselves, are well worthwhile and cost-effective. Indeed, it is the only feasible means to cope with nearly 200,000 public water systems nationwide. The RWA and the RCAPs are two important tools to this end, but not the only tools. EPA is promoting the maximum mobilization of many third parties, including the American Water Works Association, the National Council of State Legislatures, the National Manufactured Housing Association, various educational-support associations and the Association of State Drinking Water Administrators.

SENATOR MIKULSKI: Isn't there still a large demand for this sort of assistance?

ANSWER: The need to reach and support every one of the nearly 200,000 public water systems in America today is certainly significant. EPA's first priority is to bolster state capacity, to provide the means for the states to exert leadership in providing this sort of assistance.

One encouraging trend is the growing interest and support of such programs by the states. In Florida, for example, the state government has begun funding its state RWA to support joint projects.

CLEAN LAKES PROGRAM

SENATOR MIKULSKI: Why are no funds requested for the clean lakes program?

ANSWER: There is no request for the Clean Lakes program in fiscal 1991 because EPA believes that the States are now able to address lake restoration needs, along with other local priorities, under their existing water quality management programs.

In past years, the Agency has developed and demonstrated lake restoration techniques and assisted States in classifying lakes, identifying techniques for restoring the levels of water quality needed to maintain or enhance uses, and implemented cleanup and control projects. Because the Agency has provided guidance to the States on maintaining clean lakes, it believes that the States are now able to address lake restoration needs, along with other local priorities, under their existing water quality management programs.

SENATOR MIKULSKI: How many applications were received in FY 1989 and how many were funded? What was total dollar amount requested?

ANSWER: In FY 1989, EPA received 128 applications, with the total amount requested $15,104,495. We funded 98 applications, totalling $9,124,413.

SENATOR MIKULSKI: Do you expect same amount of applicants in FY 90?

ANSWER: We expect to receive about the same number.

SENATOR MIKULSKI: How can you conclude no funds needed in FY 91?

ANSWER: In past years, the Agency has developed and demonstrated lake restoration techniques and assisted States in classifying lakes, identifying techniques for restoring the levels of water quality needed to maintain or enhance uses, and implemented cleanup and control projects. Because the Agency has provided guidance to the States on maintaining clean lakes, it believes that the States are now able to address lake restoration needs, along with other local priorities, under their existing water quality management programs.

HAZARDOUS WASTE RESEARCH

SENATOR MIKULSKI: You are requesting $41 million for hazardous waste research, a reduction of $2.6 million or 6%. Why are you reducing the budget in this area?

ANSWER: There were several resource shifts within the budget, however, the majority of the net decrease results from curtailment of funding for the Center for Environmental Management at Tufts University. The Center is now fully established and can obtain funding from the private sector as well as other governmental sources.

SENATOR MIKULSKI: Page 5-18 of the budget justification indicates that there will be less research on hazardous waste landfills and underground storage tank leaks. Is research of this nature no longer a priority?

ANSWER: Remaining research on hazardous waste landfills and underground storage tank leaks is still a priority. The research which will be discontinued however, represents phases of research activities which have been completed. Specifically the research phases involve:

1. data requirements associated with the design, operation and closure of hazardous waste facilities.

2. evaluating the effects of commercial equipment to detect leaks in underground storage tanks.
   This enabled EPA to close a leak detection center and reduce resource requirements in this area.

The remaining research projects on hazardous waste landfills and underground storage tank leaks continue to be a high priority. This includes development and maintenance of expert systems to provide technical data on design, operation and closure of hazardous waste landfills. Another one of several major efforts in these areas is providing technical assistance on corrective action site assessment, decision tools and cleanup technologies for underground storage tank leaks.

SENATOR MIKULSKI: Funding will be discontinued on research using solar energy to treat wastes? Why?

ANSWER: Funding provided in FY 1990 will cover the initial phase of the work. As the program progresses with the Department of Energy (DOE), EPA will work with DOE to determine additional needs.

SENATOR MIKULSKI: What is the status of research and development on hazardous waste destruction technologies?

ANSWER: EPA research and development on hazardous waste destruction technologies focuses primarily in the area of corrective actions at RCRA facilities. This situation presents unique and difficult problems (e.g., soils contaminated with complex mixtures) that require new and innovative solutions. In addition, industry doesn't have much interest for this type of research and development because it is not directly related to the manufacture of their product. EPA research currently is directed at technologies that biologically and chemically destroy the pollutants and methods to immobilize the pollutant so they do not constitute a public health or environmental risk.

For "end-of-the-pipe" treatment of hazardous waste, a broad array of technologies are available. Treatment requirements are very industry specific and the major developments in this area are being made by industry. Although much is known in this area, there are specific technologies that still have questions, e.g., Products of Incomplete Combustion (PIC) formation and metal partitioning in incinerators, long-term effectiveness of solidification/stabilization techniques, and application of biotechnology to organic waste. EPA has been evaluating these technologies as part of the land disposal restrictions (land ban).

The future emphasis of EPA's hazardous waste research program is directed toward pollution prevention, that is, the development of new processes and products that are less polluting. EPA has a crucial role to play in forging partnerships with private and public organizations to conduct research, stimulate private sector development, implement technologies and disseminate the information.

ENFORCEMENT

SENATOR MIKULSKI: Mr. Reilly, you plan to make enforcement a top priority. Your budget request for enforcement is a 22% increase over fiscal year 1990. Furthermore, you have launched a probe of EPA's enforcement efforts, results of which are expected in April, as I understand it. Are you on schedule with this review?

ANSWER: The Enforcement in the 1990's Project was initiated in late 1989 as an authentic, self-critical review of the overall Federal/State mechanism of environmental enforcement. The Project seeks to (1) articulate a vision for the future of environmental enforcement, (2) review the roles of Federal, State and local governments, and (3) assure that internal management systems offer incentives to develop and prosecute environmentally significant cases.

The 1990's Project is proceeding in four Phases. Phase I involved extensive outreach and information gathering -- among representatives of all levels of government, both Houses of Congress, industry trade associations, and environmental groups -- regarding the key issues facing environmental enforcement. During Phase II, we seek to articulate a vision of the future. Phase III is the analytical stage during which in-depth analysis is being performed in a number of key areas suggested by our information gathering efforts. The product of this effort will be a set of specific recommendations for change in each of the substantive areas of analysis. Finally, the Project will terminate with a National Symposium on Environmental Enforcement designed to begin a long-term process of building a national consensus on the "blueprint" for change which will begin to emerge from the Project. This effort will bring together representatives from federal, State and local government, environmental and industry groups, and key representatives from Capitol Hill and elsewhere who have an interest in environmental enforcement.

The recommendations of the analytical efforts are due to be delivered to me at the end of April. This work is proceeding on schedule. The Symposium is being planned for this Fall.

SENATOR MIKLUSKI: How will recommendations be incorporated into the 91 budget plan?

ANSWER: The Enforcement in the 1990's Project (EPA's probe of it's enforcement program) is resource neutral. We have undertaken it assuming that we would operate within the resource levels included in the 1991 budget request. If specific recommendations of the 1990's Project suggest a fundamental change in emphasis within the FY 1991 enforcement budget of the agency, we will consider reprogramming within the total FY 1991 Budget. It is premature to speculate at this point on how the recommendations will impact overall resource levels or the FY 1991 Budget in particular.

SENATOR MIKLUSKI: Do you have any sense as to what the results of the study will be and what modifications to the enforcement program will be suggested?

ANSWER: EPA cannot anticipate the modifications which the 1990's Project may suggest to the Federal/state environmental enforcement system until a final product is completed in late April 1990. The recommendations will address means of enhancing the environmental enforcement program in the following six areas:

1. Environmental Measures: We are reviewing agency management systems to assure that they provide incentives for the Regions and States to focus on the most environmentally significant cases, and define measures of the environmental contribution of such enforcement efforts;

2. Federal/State Relations: We seek to strengthen the federal/state enforcement partnership by enhancing State planning, standardizing operating and oversight relationships, and minimizing unproductive conflicts;

3. Improved Rulemaking: We are identifying specific steps EPA can take to strengthen the enforceability of EPA rules by conducting "Enforcement Impact Statements" for key rules and "field testing" the implementation of selected regulations;

4. Innovative Enforcement Techniques: EPA will explore the expanded use of new enforcement tools as environmental audits, field citations, contractor listing, alternative means of dispute resolution, and administrative investigative tools;

5. Compliance Incentives/Leverage: EPA should seek to provide policy and programmatic incentives for firms to voluntarily go beyond "mere compliance," perform self-motivated compliance assessments, and report past violations to EPA;

6. Role of Local Government: We will seek to identify new functions that local governments may perform as the scope of EPA rules expands to include more and smaller regulated entities (underground storage tanks, local gas stations/dry cleaners, pesticide use).

I anticipate that in each of these key areas, specific recommendations will be forthcoming which will set a "blueprint" for the future and suggest new approaches to enable each participant on the Federal/state/local government enforcement team succeed in performing its respective functions.

SENATOR MIKLUSKI: What steps are being taken to ensure that EPA regions and the States are sufficiently aggressive in enforcing environmental laws?

ANSWER: EPA and State enforcement actions are taken pursuant to specific program compliance monitoring and enforcement strategies developed in conjunction with each environmental rulemaking. These program enforcement strategies constitute a national plan for the oversight and enforcement of specific rules.

To oversee the implementation of these strategies, each of EPA's Program Offices work with the Regions to set targets for the number of inspections to be conducted during the fiscal year, and makes advisory projections regarding the number of cases to ensue from such inspections. Each quarter the Program Offices review the progress made towards meeting such goals. In addition, the programs conduct periodic reviews of Regional performance to ensure that the national strategies are being effectively implemented.

EPA seeks to ensure strong State enforcement programs. EPA develops annual program priorities and grant guidance designed to direct the annual development of enforcement grants. This guidance defines a consistent set of enforcement expectations and activities to be anticipated by the States for the coming fiscal year. Of course, all national compliance monitoring strategies and guidance are also forwarded to the States. As the grant year unfolds, EPA staff are in constant contact with State enforcement personnel to assist them in initiating enforcement actions which are both timely and are appropriate to the nature of the violations encountered. EPA's Regions regularly monitor the performance of the States under the grants and conduct semi-annual enforcement program reviews.

SENATOR MIKLUSKI: What controls do you have to ensure that regions and states adhere to agency policy when calculating penalties imposed against violators?

ANSWER: The Agency has issued guidance in each major program area on the calculation of civil penalties. These penalty policies follow a general approach to penalty assessment established in 1984. That general approach consists of a three step penalty calculation process: (1) calculating a violator's economic gain from violating the law, (2) determining the gravity or seriousness of the violation, based upon program specific penalty policies, and (3) applying appropriate adjustment factors specified in the penalty policies.

EPA's Office of Enforcement and Compliance Monitoring reviews the penalty calculation in each judicial enforcement action as part of its concurrence function. In addition, the Agency routinely reviews each Regional office's enforcement activities annually. During those "audits" the audit teams discuss with Regional enforcement personnel adherence with Headquarters policies, including penalty policies.

The states, on the other hand, operate under their own authorities and are not required to adhere to Agency penalty policies. Some of the states have adopted EPA's approach to imposition of civil penalties to some extent, and we provide advice to them in developing penalty policies if they request it. Currently, twenty-seven states have requested access to the EPA's BEN computer model which calculates a violator's economic gain from violating the law. The Agency makes the model available to states at no charge.

Nevertheless, the EPA does monitor how states impose penalties. The Agency issued timeliness and appropriateness guidance that set parameters regarding state enforcement actions. One of the issues considered under appropriateness is whether any penalty was assessed or the size of the penalty when one was assessed. The states are given wide latitude in assessing civil penalties. But the EPA will only consider "overfiling" a state enforcement action if a state fails to assess a penalty or the assessed penalty is grossly deficient. In an overfile action, the EPA initiates a second civil enforcement action seek additional penalties or injunctive relief against the violator in question.

SENATOR MIKULSKI: What is the status of your plans to consolidate federal facility enforcement into a single office, and what problems will consolidation solve?

ANSWER: The Federal Facilities program is currently undergoing organizational consolidation to provide the agency with a single focus for enforcement of all environmental requirements at Federal facilities. The proposed organization would initially combine the Federal Facilities Compliance staff from the Office of Federal Activities with the Office of Federal Facilities Hazardous Waste Compliance, to create a new Office of Federal Facilities Enforcement. This Office will report directly to the Assistant Administrator for Enforcement (currently the Office of Enforcement and Compliance Monitoring), and will have as part of its mandate the development of a multi-media enforcement program to improve compliance rates and promote cleanup activities at Federal facilities.

SENATOR MIKULSKI: How is EPA monitoring the performance of its enforcement programs, and what kind of performance indicators are being used?

ANSWER: EPA utilizes a management accountability system known as the Strategically Targeted Activities for Results System (STARS) as the primary means of monitoring the quantifiable aspects of EPA and State operations. The STARS (formerly known as the Strategic Planning and Management System (SPMS) management indicators were developed in the mid-1980's by the Steering Committee on the State/Federal Enforcement Relationship and are defined in the Policy Framework, as revised (August 25, 1986).

The Policy Framework establishes a core set of management indicators tailored to each program. This includes activity measures for inspections, administrative and judicial enforcement activities, result indicators to measure compliance of important segments of the regulated community and identification and resolution of Significant Noncompliance (SNC). The Framework establishes the related concept of Timely and Appropriate Enforcement Response which applies to SNC. The Framework establishes criteria for developing definitions for certain types of activities which apply to both EPA and the States, for example, for formal administrative enforcement actions to be counted they must: 1) be independently enforceable; 2) require the recipient to take some corrective/remedial action within a specified period of time; 3) require the recipient to refrain from some certain behavior; and 4) require the recipient to achieve or maintain compliance.

The quantitative indicators have been designed primarily to serve as a tool for senior Headquarters and Regional managers as they conduct their multi-media management responsibilities, including conduct of State oversight. However, over time we have learned that use of quantitative data alone is not sufficient to fully assess the performance of a particular program, Region, and/or State. The quantitative indicators are very helpful in formulating questions and identifying areas for further inquiry, but other methods that bring about dialogue between managers are needed to monitor program progress. In this vein, the Office of Enforcement and the Headquarters media program offices make use of regular conference calls to the Regions and annual on-site performance reviews to "get behind the numbers." In turn, each Regional office is directed to review State performance in the context of annual negotiations on State grants and establishment of annual State/EPA Enforcement Agreements which govern the State/Federal relationship and establish common performance expectations for the upcoming year. Finally, the Agency is presently reexamining existing management systems to determine whether adjustments are needed to better link enforcement actions with environmental improvement.

COMBINED SEWER OVERFLOWS

SENATOR MIKULSKI: EPA estimated in 1986 that at least $15.2 billion would be needed to address the problem of Combined Sewer Overflows, although the National League of Cities placed the figure at over $100 billion in recent testimony before a Senate Subcommittee. What is EPA's current estimate for the cost of addressing the problem of combined sewer overflows nationwide?

ANSWER: There are approximately 1,100 collection systems in the U.S. that have combined sewer and stormwater systems. Current documented needs to control and treat Combined Sewer Overflows (CSO) total $16.4 billion for 328 CSO systems as documented in the 1988 Needs Survey Report to Congress.

SENATOR MIKULSKI: What accounts for the discrepancy between EPA's estimate and that of the National League of Cities?

ANSWER: The recent testimony by the National League of Cities (NLC), on July 25, 1989, before the Senate Subcommittee on Environmental Protection estimated CSO needs to be between $50 billion and $100 billion. The estimate was developed by NLC by extrapolating from the needs of the 328 CSOs identified in the 1988 Needs Survey to the remaining 772 undocumented CSOs as a general rule. If water quality or public health problems cannot be documented through established documentation criteria, EPA does not include those estimates in its Annual Needs Survey As a result, the undocumented CSO systems were not included in EPA's survey.

HAZARDOUS WASTE/CORRECTIVE ACTION

SENATOR MIKULSKI: EPA estimates between 60 and 70 percent of the 5,700 hazardous waste land disposal, storage, and treatment facilities that are operating or closing may require corrective action to clean up contamination, at a cost of at least $10 billion.

In December 1987, GAO reported and EPA agreed that the corrective action program for operating and closing hazardous waste facilities could potentially equal or exceed the magnitude of the Superfund program. According to GAO's report, EPA estimates that over 800 facilities may have to be transferred to the Superfund program for cleanup because the facility owner/operator will be either unwilling or unable to pay for cleanup of the facility.

During fiscal year 1989 appropriations hearings, EPA told the subcommittee that 17 states would be authorized to administer the corrective action program by the end of 1989. As of February 1990, only four states have this authorization. What has caused this delay and when do you expect all states to be authorized?

ANSWER: Four states (Georgia, Colorado, Utah, and Minnesota) are currently authorized to administer the corrective action program, and three additional States (Idaho, Illinois, and Texas) are expected to receive authorization in the next few months. The slower-than-expected rate of corrective action authorization may be attributable to several factors. The potential corrective action workload is uncertain. Many states have cited resource investment and the cost of corrective action oversight as major impediments to seeking authorization. In addition, state agencies have indicated problems in attracting and retaining staff with the necessary expertise to oversee corrective action activities. Also, because Federal corrective action regulations are not yet proposed, states may be cautious about accepting this added responsibility. The authorization process can involve regulatory and statutory amendments by states to achieve equivalence with the Federal program, and this is time consuming. The Agency currently estimates that approximately 15 states will have corrective action authority by the end of 1991.

SENATOR MIKULSKI: To what extent is states' progress in seeking authority to administer the corrective program tied to their dissatisfaction with the level of federal funding provided?

ANSWER: The uncertain costs of the corrective action program may be a deterrent to states' seeking corrective action authorization. Moreover, many states may be reluctant to seek authorization quickly without knowing what Federal corrective action rules may be promulgated. A number of states have concentrated on managing the other aspects of the RCRA program, particularly the statutorily-mandated permit deadlines and compliance monitoring/enforcement of the base program. All of these factors may have combined to slow progress in seeking corrective action authority, and it is difficult to make a general statement about which factor or factors are predominant.

SENATOR MIKULSKI: With so few states now authorized to administer the corrective action program and EPA's intentions to only "encourage" the states to assume the lead for about half of corrective action oversight, when does EPA realistically expect (1) cleanup to be initiated at all facilities requiring cleanup and (2) actions to be completed at all these facilities?

ANSWER: The "Corrective Action Outyear Budget Strategy" that EPA completed last summer projected a timeframe for completing corrective action ranging from 17 to 45 years. This range depends on the ultimate number of facilities which will need corrective action, the nature of remedies undertaken, and the pace at which available Federal, state, and owner/operator resources will permit these facilities to be addressed.

SENATOR MIKULSKI: What is the current status of corrective action at hazardous waste land disposal, storage, and treatment facilities and when does EPA plan to complete action at these facilities?

ANSWER: The Agency is prioritizing the large universe of facilities potentially requiring corrective action to ensure that the most environmentally significant facilities are addressed first. To date, over 1600 facilities have had RCRA Facility Assessments (RFAs) conducted. Of these, over 1300 facilities require additional action. RCRA Facility Investigations (RFIs) have been imposed at over 550 facilities. Additionally, under the Environmental Priorities Initiative over 550 preliminary assessment/site investigations have been conducted at RCRA facilities.

Under current budget and pricing assumptions, the Agency expects corrective action to be completed at a limited number of facilities by 1994. The "Corrective Action Outyear Budget Strategy," which the Agency completed last summer, projected timeframes for owner/operator completion of corrective action from 17 to 45 years. This range depends on the ultimate number of facilities which will need corrective action, the nature of remedies undertaken, and the degree to which owner/operator resources will allow these facilities to be addressed.

SENATOR MIKULSKI: How many of these facilities have transferred to Superfund for cleanup and what were the reasons for these transfers?

ANSWER: To date, 29 RCRA sites have been added to the National Priorities List (NPL) under this policy. In general, the Agency defers the placement of RCRA sites on the NPL in cases where Subtitle C corrective action authorities apply and cleanup is likely to be performed under RCRA. The intent of this policy is to preserve Superfund resources for sites for which there is no other authority to address the contamination. The Agency has identified certain categories of RCRA Subtitle C sites where prompt cleanup under Subtitle C corrective action authorities may not be likely. Sites in these categories are considered for addition to the NPL and include: (1) facilities at which the owner/operator is bankrupt or unwilling to clean up contamination; (2) non- or late filers (of Part A RCRA permit applications); (3) converters, which are facilities that at one time were treating or storing hazardous waste but have since converted to an activity for which interim status is not required; and (4) facilities holding permits issued before the enactment of the Hazardous and Solid Waste Amendments (HSWA).

HAZARDOUS WASTE/CORRECTIVE ACTION

SENATOR MIKULSKI: Although RCRA's corrective action program is designed to get owners/operators to implement the necessary corrective action and pay the cost for cleaning up contamination, some facilities are likely to abandon these sites because they are not able to pay the cleanup. How many facilities may have to be transferred to Superfund because the facility owner/operator won't pay?

ANSWER: In the last two years, the Agency has added seven sites to the National Priorities List because of bankruptcy or unwillingness based on financial inability. However, it is difficult to predict future trends, since relatively few facilities have yet had to face later stages of cleanup.

SENATOR MIKULSKI: What is EPA doing to have owners/operators determine the extent of contamination and implement corrective action, especially at closing facilities to minimize potential cost to the federal government for cleanup under Superfund?

ANSWER: Under the Environmental Priorities Initiative, facilities are prioritized to ensure that the most environmentally significant facilities, whether operating, closed, or closing, are addressed first. The Agency conducts a RCRA facility assessment or a preliminary assessment/site investigation at all facilities to determine the presence and extent of any contamination. Corrective action requirements are included in the facility's post-closure or operating permit or a corrective action order is issued to compel the owner/operator to begin corrective action activities.

SENATOR MIKULSKI: In the last 2 years, EPA has used some Superfund money to begin assessing the need for corrective action at facilities. How will the planned fiscal year 1991 decrease in Superfund pre-remedial funds from $83.0 million to $76.5 million impact on assessment of these facilities?

ANSWER: The $6.5 million decrease in Superfund pre-remedial funding for FY 1991 will not impact EPA's efforts to assess the need for corrective action at RCRA facilities. This assessment generally occurs at the preliminary assessment stage of the evaluation process and a management decision has been made to fully fund this activity.

HAZARDOUS WASTE/POST-CLOSURE

SENATOR MIKULSKI: To ensure that hazardous waste disposal facilities do not pose environmental or public health hazards after closure and that any potential hazards are promptly detected and remedied, all disposal facilities must meet certain requirements for a period of 30 years after they are closed and no longer accepting waste (post-closure).

EPA's fiscal year 1991 budget justification appears to substantially increase the agency's emphasis on post-closure permits for hazardous waste disposal facilities in fiscal year 1991.

As of December 1989, only about 90 of 1,115 post-closure permits had been issued. In the fiscal years 1989 and 1990 budgets, EPA estimated that only 15 post-closure permits would be issued over a 2-year period. What explains the slow progress to date?

ANSWER: The Agency's 1991 budget request does represent a significant increase in emphasis on post-closure permitting by the Regions and States. This increase follows a significant 1990 increase for post-closure permitting. The degree of progress to date is due to a focus meeting statutory deadlines, such as the 1988 land disposal permitting deadline and the 1989 incinerator permitting deadline. The permits started in 1990 and 1991 will be completed after approximately three to five years. The workload associated with post-closure permitting is equivalent to that of operating facility permitting, and might take longer since the post-closure permit is dealing with a facility that has already closed, i.e., where the owner has less of an incentive to obtain a permit. The Agency is also addressing corrective action needs at many of these facilities through the issuance of corrective action orders (under §3008(h), §3013, or §7003) to address cleanup needs at environmentally significant facilities.

SENATOR MIKULSKI: Is the issuance of 300 permits in one year achievable, considering the slow pace of issuance up until now?

ANSWER: The Agency's budget request does not fund issuance of 300 post-closure permit in 1991. Rather, sufficient resources are requested to initiate an additional 300 permits. Issuing post-closure permits is a complicated process, involving groundwater evaluation and other technical review. The distinction between initiation and issuance of permits is important, since review of these permit applications takes several years to complete.

FEDERAL FACILITY ENFORCEMENT

SENATOR MIKULSKI: Federal facilities' compliance with environmental laws has been less than exemplary. For example, an October 1989 GAO report stated that relatively few enforcement actions have been taken against agencies or their contractors, even though one-third of EPA and state inspections of DOD and DOE contractor-operated facilities revealed one or more major violations of the Resource Conservation and Recovery Act (RCRA). This report also points out that EPA is beginning to increase its enforcement actions against the contractors because of the growing realization that contractors are often to blame for violations and because EPA has greater enforcement authority against the contractors than it does against federal agencies.

This report also stated that EPA planned to issue a contractor enforcement policy in January 1990.

How many enforcement actions have been directed against federal facility contractors since October 1, 1989?

ANSWER: We have not issued any enforcement actions against Federal facility contractors since October 1, 1989 and do not have any official reports or records on state enforcement actions filed against Federal facility contractors.

SENATOR MIKULSKI: What types of enforcement actions were these and what were the assessed penalty amounts?

ANSWER: We have not issued any enforcement actions against Federal facility contractors since October 1, 1989. Therefore, there are no assessed penalty amounts.

SENATOR MIKULSKI: What is the current status of these enforcement actions, including penalty amounts paid?

ANSWER: We have not issued any enforcement actions against Federal facility contractors since October 1, 1989. Therefore, there are no assessed penalty amounts.

SENATOR MIKULSKI: Has EPA issued its contractor enforcement policy. If not, why not and when will it be issued:

ANSWER: EPA's government-owned, contractor-operated (GOCO) enforcement response policy has been drafted and is undergoing internal workgroup review. It is expected to be issued, in final form, sometime this summer. There have been delays due to changes in other agency contractor indemnification policies and regulations, particularly those of the Department of Energy.

REREGISTRATION/MAINTENANCE FEES

SENATOR MIKULSKI: The 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) established two kinds of fees to support accelerated reregistration and expedited registration: a one-time reregistration fee for each pesticide's active ingredient and an annual fee to maintain individual product registrations. FIFRA '88 specifically prohibits EPA from levying any other fees for pesticide registration until September 30, 1997, when the FIFRA '88 fee provisions expire. The two fees were expected to raise about $160 million over 9 years. Currently, EPA estimates that it may be able to raise only about $153 million at best from these fees because of the number of registrants who have canceled their registrations and the statutory cap on the registration fees.

If EPA receives less than projected amounts from FIFRA '88 fees, how far behind will that put EPA in reregistering all older pesticides?

ANSWER: EPA has recognized certain problems in implementing the 1988 FIFRA Amendments. In order to comply with the statutory time frames, EPA is taking steps to address those problems, including reappraising the cost of reregistration and requesting Congress to eliminate the caps on maintenance fees.

Reappraisal of the cost of reregistration. The 1988 Amendments to FIFRA accelerated the reregistration process for previously registered pesticides by requiring completion of reregistration within nine years. To assist in EPA's implementation of this Act, EPA developed a Nine Year Plan, showing the resource needs for implementing the reregistration program within the time frame set forth by FIFRA. It was based on an estimate of unit costs and projections of revenues from maintenance and reregistration fees. The original Nine Year Plan (April, 1989) showed a potential shortfall beginning in the out-years. At that time, the cumulative shortfall amounted to $16.5 million over the nine year period.

Based on its cumulative experience to date with administering this program, the Agency is completing a reappraisal of its cost. When the reappraisal is completed, the Agency will have a more realistic estimate of the level of funds needed to complete reregistration.

Eliminating the caps on maintenance fees. The 1988 Amendments to FIFRA prescribed maintenance fee levels of $425 for the first 50 registrations held by a registrant (up to a statutory cap of $20,00 per registrant) and $100 for each additional registration (up to a second statutory cap of $15,000 per registrant). Under the law, EPA can increase fee amounts administratively, but the caps cannot be modified without new legislation. EPA has found that the caps discriminate against smaller registrants and make it difficult for EPA to reach statutory goals of revenues from maintenance fees. The Agency has requested that Congress eliminate the maintenance fee caps established by the 1988 Amendments to FIFRA.

SENATOR MIKULSKI: With over a year of experience under FIFRA '88, what does EPA think it will cost to reregister all older pesticides within the 9 years envisioned by FIFRA '88?

ANSWER: As previously mentioned, to assist in EPA's implementation of FIFRA '88, EPA developed a Nine Year Plan, showing the resource needs for implementing the reregistration program within the time frame set forth by FIFRA. However, based on cumulative experience administering this program, the Agency is finding that revenue estimates are declining from the levels projected in the original Nine Year Plan, and also that the number of chemicals supported is going down. EPA is developing a more realistic appraisal of the total cost of each reregistration case. Once the appraisal is complete, the Agency will be able to assess the impact that changes in the number of registrations to be supported have made on the level of funds needed to complete reregistration.

SENATOR MIKULSKI: Will the FIFRA '88 fee provisions need to be amended to provide for funding shortfalls?

ANSWER: The 1988 Amendments to FIFRA prescribed maintenance fee levels of $425 for the first 50 registrations held by a registrant (up to a statutory cap of $20,00 per registrant) and $100 for each additional registration (up to a second statutory cap of $15,000 per registrant). Under the law, EPA can increase fee amounts administratively, but the caps cannot be modified without new legislation.

EPA has completed one year of operation under the 1988 Amendments, and is halfway through the second year. We are having some problems with the legislative caps. The problems affect our projected revenues from maintenance fees and also have serious differential effects on smaller registrants.

In 1989, the maintenance fees produced only about $7.4 million in revenue, compared to the target of $14 million specified by the statute. The difference resulted from a higher drop-out rate than anticipated. Many of the registrations dropped were "me-too" registrations for active ingredients that remain on the market and are still subject to reregistration. The drop-outs have not led to a proportionate decline in EPA's workload and resource needs, since EPA's reregistration workload depends on active ingredients rather than products.

For the 1990 maintenance fee cycle, EPA has set a base fee of $1300 per registration, subject to the statutory caps. To offset the adverse impact on smaller registrants, there is a 50% discount for the first registration held by any registrant. With no additional drop-outs, the 1990 fee structure is expected to raise approximately $12.5 million. Although EPA is tripling the fees, we project less than a doubling of fee collections in 1990 because of the statutory caps. Furthermore, the higher we raise the fee, the higher the drop-out rate among registrants below the cap, a situation which will further exacerbate funding shortfalls. Registrants above the cap are unaffected by fee increases, and have no incentive to drop registrations.

In summary, the caps in the current system discriminate against smaller registrants and make it difficult for EPA to reach the $14 million statutory goal. For these reasons, EPA has asked that Congress eliminate the maintenance fee caps. Further, we urge that Congress act quickly, in time for 1991 fee cycles.

PESTICIDE REGISTRATION FEES

SENATOR MIKULSKI: The President's fiscal year 1991 budget includes $14 million from user fees to offset EPA's cost incurred in registering new pesticides. EPA had established similar fees by regulation in May 1988, but in October 1988, Congress suspended the fees when it enacted amendments to FIFRA '88, which included fees to expedite reregistration of existing pesticides. As mentioned earlier, FIFRA '88 specifically prohibits EPA from levying any other fees for pesticide registration until September 30, 1997, when the FIFRA '88 fee provisions expire.

When does the administration expect to submit legislation to establish these new fees?

ANSWER: EPA published final regulations requiring pesticide registration fees on May 26, 1988 based on 31 U.S.C. 9701, commonly referred to as the "User Charge Statute." As part of FIFRA '88, Congress explicitly prohibited EPA from charging any fees, other than those provided for in the 1988 amendments, for a nine year period. Accordingly, on March 22, 1989, the agency issued a final rule amending the 1988 regulation to provide that no registration fees would be charged during the nine-year period. Registration fees are therefore suspended until October 1, 1997.

The Agency has been working with OMB and other agencies in exploring various options and to develop appropriate legislation to reinstitute pesticide registration fees. It is expected that legislation to establish registration fees will be submitted to Congress in April 1990.

SENATOR MIKULSKI: If the Congress does not establish the new registration fees, how will EPA assure that it gives appropriate priority to registering those pesticides, such as biologicals, that have the greatest potential for health and safety because they could replace more dangerous pesticides such as chemicals?

ANSWER: The Agency places a high priority on reviewing registration applications for safer and more effective alternatives, such as biologicals, to traditional chemicals, which are often toxic and/or persistent. The reinstitution or delay of registration fees should not affect the review of such registrations, since registration fee receipts are expected to be an offset against the Agency's budget. The Agency's efforts to register new, safer pesticides, such as biologicals, will continue to be funded with base resources.

PESTICIDE REREGISTRATION

SENATOR MIKULSKI: EPA undertook to hire additional staff and to implement computerized tracking systems to help it meet the reregistration deadlines in the 1988 FIFRA amendments. How many additional staff have been hired to support reregistration?

ANSWER: Since October 1, 1988, and continuing into this fiscal year, the Office of Pesticide Programs (OPP) has recruited 158 people, who were charged to the FIFRA revolving fund, to work on implementing the mandates of the FIFRA '88 amendments. Other hires have occurred within the base as permitted by attrition.

SENATOR MIKULSKI: How many newly hired staff are assigned to each of the following areas: scientific review of data, administrative and computer support, and regulatory offices such as the Special Review and Reregistration Division?

ANSWER: 30 people were hired in the administrative and computer support areas, which comprise management and program analysis, technical information management and computer programming. Scientific review of data is being augmented through the recruitment of 114 scientific personnel. Major science groupings include biologists (33), toxicologists (10), chemists (23), and environmental protection specialists (33, including 26 in the Registration Division and the Special Review and Reregistration Division). Additional support is provided by newly hired entomologists (2), a pathologist, an agronomist, a health scientist, environmental scientists (3), hydrologists (2), economists (4), and a statistician. The above hires are spread throughout OPP and support either directly or indirectly the final product of the regulatory offices. Finally, 14 hires were for clerical support.

SENATOR MIKULSKI: What educational background or degrees are required for staff involved in scientific reviews?

ANSWER: At a minimum, personnel hired at the lower grades, must have a bachelor's degree which includes at least 24 credit hours of work in their scientific specialty. The majority of OPP's scientists have experience and/or degrees beyond this level. All significant science reviews are further evaluated by senior level staff and final decisions must pass peer review.

PESTICIDE REREGISTRATION

SENATOR MIKULSKI: In May 1989 the General Accounting Office, in testimony before the Senate Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, stated that EPA's pesticide management information systems are woefully inadequate and do not even enable EPA to tell the public how many pesticides it has reregistered. What progress has been made in improving EPA's management information?

ANSWER: In support of reregistration of chemicals on the B, C, and D lists, we are developing and implementing a computer system which we call the Accelerated Reregistration Tracking System (ARTS). We have completed and implemented the first modules of ARTS which support Phase 2 of reregistration and the mailout of Phase 3 materials. We are now developing the module to support the receipt and inprocessing of the Phase 3 responses from pesticide registrants.

In support of reregistration of chemicals on the A list, we are developing and implementing a computer system which we call the A-List Inventory Support System (ALISS). This is being developed separately from ARTS because the process requirements for A list chemicals are different from the B/C/D list requirements during these early phases of reregistration. We have completed and implemented modules of ALISS which provide a repository for the status information which the Office of Pesticide Programs (OPP) developed while completing its inventory of A list chemicals. This includes data requirements, studies received and outstanding, and results of reviews. We can generate reports from this system. We will complete the next module of ALISS in mid-April which will provide more sophisticated reporting capabilities. We are also in the process of developing the module of ALISS which will be used to support data call-in activities. We believe that this module will also be able to be used, in a modified form, to support B/C/D list data call-in activities.

In support of all reregistration activities, we are developing and implementing a computer system which we call the Label Use Information System (LUIS). This system will provide for aggregate reporting of use information for active ingregients in pesticides and will allow for interactive access to detailed use information on specific products. We have completed and implemented the first version of the data capture module of LUIS and have begun entering data. We are in the process of developing the reporting and interactive retrieval modules of the system.

We have developed and implemented the first version of the Pesticide Registration Enforcement System (PRES). This system will be used to support the Office of Compliance Monitoring as it manages product suspensions resulting from failure of registrants to satisfy their data and administrative requirements.

We have developed and are in the final stages of implementing the Reference File System (REFS), which will allow OPP personnel to interactively access information on pesticide chemicals, products, and companies.

We are in the process of developing the Pesticide Regulatory Activity Tracking System (PRATS). This system will provide for tracking of actions as they proceed through the regulatory process and also track formal correspondence with registrants. It will replace and enhance the capabilities of several OPP tracking systems.

We have completed a successful pilot of electronic data exchange (EDX) with pesticide registrants and are planning to gradually incorporate this capability into our processes. This capability will improve the speed and accuracy of our information transactions with registrants.

We completed an initial requirements and options analysis for electronic imaging in OPP. We concluded that this technology has definite possibilities for improving our productivity and performance and are going forth with a formal feasibility study and requirements analysis.

We have made substantial investments in computer hardware and software and in additional government and contractor technical personnel to support the above activities.

MANAGEMENT AND SUPPORT

SENATOR MIKULSKI: The Office of the Administrator's budget is increasing by 12%. Why are these increases necessary?

ANSWER: As you know, the Office of the Administrator was reconfigured in the Fall of 1989, when the Administrator used one of his Presidential appointee positions to create an Assistant Administrator for International Activities. At the same time, he also abolished the existing Office of External Affairs and reconstituted most of its functions among three Associate Administratorships in the Office of the Administrator.

Resources were reallocated to reflect the decisions made in the reorganization, but without any change in the agency budget overall.

SENATOR MIKULSKI: The Office of Congressional and Legislative Affairs is increasing by 20% and the Office of Public Affairs by 17%. Why are these increases necessary?

ANSWER: The increases in 1991 are necessary to reflect true salary needs for the Offices which are not fully staffed in 1990. Some of the staff did not come on-board until after the beginning of 1990. Therefore, PC&B was funded on a pro rata basis for those offices until they were staffed up. These are not "new positions" or "new staff growth". The 1991 figure reflects those offices at the full staffing level. The balance of the increases reflect increased personnel and support costs.

SENATOR MIKULSKI: Your general counsel budget is going up by 33%. Is an increase of this magnitude really needed? Please explain.

ANSWER: The Office of General Counsel budget request is for $10,197,000 in FY 1991, an increase of $2,560,300 from the FY 1990 current estimate of $7,636,700. The FY 1991 budget requests 145.6 total workyears, an increase of 15.0 from the FY 1990 current estimate of 130.6. Funds requested increase by 33%, the total workyears increase by 12%.

The request includes six workyears to implement the anticipated revisions to the Clean Air Act. They will provide key legal support to the Agency's implementation of the various new requirements by providing legal counsel and review for all regulatory actions, policy documents and guidelines. Additionally, we have requested nine workyears to provide an increase in capacity to the Office of General Counsels's ability to provide timely, comprehensive legal support to the Agency and the management of Agency defensive litigation. These workyears will provide support to the EPA Inspector General's office, the Agency's procurement and contracts program, international activities, Indian programs and our operating media programs. These workyears are needed to provide OGC with a modest increase to support growing Agency programs. The increase in funding requested supports the additional workyears requested and the need for an increased base to provide for increased operating and personnel costs, and for improvements to office operations such as office automation. The requested increase will allow the Office of General Counsel to fully staff to authorized levels and to provide its attorneys with the level of operational support they need to be productive as possible.

SENATOR MIKULSKI: Finally, your Office of Administration and Resources Management is projected to increase by 16%. Please explain the need for this increase.

ANSWER: The majority of the Office of Administration and Resources Management's (OARM) requested increase will provide funding for the Agency's SLUC and Direct Lease payments. It will also support increased timeshare capacity/data integration efforts. Other increases will support the additional OARM workyears and new Agency workyears, increase expense funds for Regional management staff, support Regional Health and Safety and Information management activities, provide for Agency Executive Development and provide increased Financial Management Integrity activities.

In addition, a major portion of this overall increase is the 32% increase to provide our Regional Support accounts with the resources necessary to operate the Agency's Regions.

SENATOR MIKULSKI: How would you say the size of EPA's operating program workload has changed since FY 79? How has EPA's number of mandates increased?

ANSWER: Although we are unable, on short notice, to quantify the exact workload level in 1979, both the workload and mandates have increased dramatically since 1979.

With the creation of EPA in 1970, existing environmental programs focussing primarily on air pollution, water, and toxic wastes were consolidated and in the course of the Seventies, strengthened (the Clean Water Act, 1972; the Safe Drinking Water Act, 1974; the Toxic Substances Control Act, 1976). However, since 1979, two developments have vastly increased our workload and our mandate.

First, the Love Canal tragedy ushered in a whole new era of heightened environmental awareness resulting in major pieces of legislation each with numerous supporting regulations and attendant enforcement responsibilities. These began with the establishment of Superfund through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA -- amended and revised by the Superfund Amendments and Re-authorization Act, SARA), and the Resource Conservation and Recovery Act (RCRA). Other acts have expanded our responsibilities over asbestos in schools, radon, ocean dumping, and critical habitats (wetlands, estuaries, and coastal areas).

Second, the close of the Eighties, centering on the Presidential campaign of 1988, marked an expanded emphasis on environmental issues that are global in scope. The ozone depletion issue resulting in our commitment to phase out CFCs and Eastern European environmental pollution resulting in our commitment of technical assistance, and an increased interest in clean air with far-reaching legislation pending in Congress, dominate this second phase, the full implications of which have yet to be realized. The issue of global climate change, including worldwide tropical deforestation, adds an element of undetermined but likely significant future impact. Our mandate and workload is clearly in the midst of a second major expansion phase.

EPA WORKLOAD

SENATOR MIKULSKI: Please provide (1) the number of pollution sources regulated or permitted in both 1979 and in 1990; (2) number of chemicals whose toxicity required research in 1979 and in 1990; (3) number of regulations requiring EPA oversight in 1979 and 1990.

ANSWER: EPA does not have comparable data for 1979 and 1990 to accurately respond to your question. Given the limited timeframe for responding to Committee questions the following information is provided to illustrate certain changes in the number EPA permitting sources in the two years.

(1) In 1979, EPA estimates 272,277 pollution sources were regulated/permitted. The information breaks down to these numbers:

Clean Air Act--stationary sources *	200,000
Clean Water Act--National Pollutant Discharge Elimination System permits *	164,877
TSCA--manufacturers and importers	7,400
TOTAL-pollutant sources regulated/permitted	272,277

* 1976 data

Sources: Environmental Quality - 1979, The Tenth Annual Report of the Council on Environmental Quality, December, 1979 and EPA Enforcement--A Progress Report, 1976, U.S. Environmental Protection Agency, Washington, D.C., (January 1977).

In 1990, EPA estimates 472,690 pollution sources will we regulated/permitted. The information breakdown into these data base categories/counted by facilities/by program office:

Water

Water Enforcement Permits Permit Compliance System)	36,795
Drinking Water/Federal Reporting Data System	5,551

Air

Compliance Data System	61,397

Toxics/Pesticides

FIFRA/TSCA	37,947
Chemicals in Commerce Info System (CICIS)	6,762
PCB Waste Handlers	518
Medical Waste Handlers	222
Toxic Release Inventory System (TRIS)	20,970

Hazardous Waste

Hazardous Waste Data Management System........302,528

TOTAL count of facilities regulated/permitted......472,690

Source: EPA, National Enforcement Investigations Center, using selected US EPA, program data information systems.

(2) As a way of responding to the number of chemicals whose toxicity required research in 1979 and in 1990 the following indicator is provided. The number of regulations put into effect from 1982 to 1989** is as follows:

1982 - 187
1983 - 113
1984 - 129
1985 - 127
1986 - 103
1987 - 90
1988 - 106
1989 - 103

**These figures do not include State Implementation Plans or pesticide registration/reregistration rules.

FY 1990 data is currently not available, but can be provided at the end of the fiscal year.

(3) Neither OMB nor EPA has a compilation of the regulations requiring oversight in 1979. The number of regulations requiring EPA oversight is not currently tracked.

ATSDR

SENATOR MIKULSKI: Congress has heard from State and community groups about the cooperative effort between EPA and ATSDR to carry out the Superfund mandate.

Please provide background information on the ATSDR budget request, and the process used by EPA to make decisions about the ATSDR budget request.

ANSWER: The 1991 President's Budget request for ATSDR is $45 million. The request is based on available revenues and continues to implement the Superfund Management Review. The level provides sufficient resources for ATSDR may to meet the needs of EPA.

Funding at this level will allow ATSDR to conduct health assessments at 60 of the 75 or more NPL sites that will be added to the NPL during 1990. ATSDR will conduct a health assessment on 30 of the 40 petitions expected during 1991. Section 104(i)(6)(B) requires the Agency to respond to petitions for health assessments by either conducting a health assessment or by providing a written explanation of why a health assessment is not appropriate. ATSDR will be able to produce and oversee state production of 80 health assessments.

ATSDR anticipates conducting 10 pilot health effects studies, which are conducted based on a need identified by either a health assessment or in response to a request from a state.

Funding of the existing 23 state cooperative agreement programs, whereby states assist in conducting both preliminary and full health assessments, will be reduced by 64% from the program's 1990 level.

ATSDR will be able to respond to 2,200 of the requests for health consultations. Section 104(i)(4) of CERCLA states that ATSDR shall provide consultations upon request of EPA, states, or local officials, on the health issues relating to exposure to hazardous or toxic substances.

ATSDR will be able to produce the fourth set of 40 Toxicological Profiles in final form and initiate drafts for 20 of the 83 substances. ATSDR is mandated under Section 104(i)(5) to identify gaps in the research for each substance profiled. This activity will be conducted for the 20 substances that will be initiated during 1991.

ATSDR will respond to 1,000 requests for health consultations in emergency response situations.

By September 1990, the TCE sub-registry of the National Exposure Registry will be established. The TCE sub-registry will be made up of 10 site-specific sub-registries. These 10 will have to be maintained and updated. ATSDR has determined that six additional sub-registries need to be established; each of these will involve approximately 10 site-specific sub-registries. ATSDR will continue the 10 existing site-specific sub-registries.

ATSDR currently sponsors three state-wide non-site specific surveillance programs. No such efforts will be continued in 1991 due to constrained resources for this discretionary activity. General surveillance activities are authorized under section 104(i)(1)(D).

Four site specific surveillance projects will be in operation as of September 1990. This includes the two Lipari Landfill projects. In 1991, ATSDR will use available funds to continue the two Lipari Landfill projects. Site specific surveillance is mandated under section 104(i)(9) of exposure to hazardous substances, where there is a significant risk of adverse health effects because of this exposure, and where the exposure is the result of a release from a facility.

ATSDR will fund eight cooperative agreements in 1991 for the purpose of developing state based environmental health education programs for health professionals. Eleven were funded in 1990. These agreements are funded as part of ATSDR's health education program mandated by section 104(i)(14) of CERCLA.

INDOOR AIR AT HEADQUARTERS

SENATOR MIKULSKI: Some "improvements" have been made to a few of the ventilation systems at Waterside Mall. However, the Agency has not been able to tell employees if the systems now comply with the ASHRAE standard for outside makeup air. Money for ventilation system changes was given directly to the building owner and he also received a service fee.

How much has been spent on these changes?

ANSWER: In FY 1989 EPA spent $534 thousand on ventilation system changes to improve indoor air quality through purchase and installation of supplemental air conditioning units and diffusers, balancing the system, and connection of flex ducts. In FY 1990, we are projecting expenditures of $3.1 million to improve indoor air quality at Headquarters' buildings. This includes funding of an HVAC study, cleaning of duct work, venting copy centers, removing carpet, extending hours for utilities, and purchasing and installing supplemental air conditioning units and diffusers.

SENATOR MIKULSKI: What oversight is provided by EPA to ensure that tax dollars are spent wisely, that new systems meet minimum health guidelines (ASHRAE)?

ANSWER: Work to be performed is determined by an EPA facilities specialist and an EPA industrial hygienist. Cost estimates for corrective actions are reviewed by an independent engineering firm or by government engineers. After costs are approved, work is initiated and when corrective measures are completed, an independent evaluation of the air supply to the affected areas is made. Payment is authorized only after the work is inspected and approved.

We are requiring that new equipment introduced to the building have the capacity to adequately heat or cool a mixture of 20% outside air even at the extreme temperature swings in the winter and summer. This should allow us to meet the new ASHRAE guidelines.

SENATOR MIKULSKI: How much will it cost to meet ASHRAE in the EPA Headquarters buildings? Operational/energy costs? Costs for physical modifications?

ANSWER: We do not yet know how much it will cost to meet the new ASHRAE guidelines. The Agency is in the process of awarding a contract to design modifications to the current HVAC system that would allow us to meet the new ASHRAE guidelines. Part of this contract will require that the cost of any modifications as well as increased energy and operating costs be determined.

SENATOR MIKULSKI: Does EPA accept the ASHRAE standard? When will this standard be met?

ANSWER: Local laws and codes do not require building owners to meet the new ASHRAE guidelines. Nonetheless, EPA has decided to move toward the new guidelines. We will be able to estimate when the guidelines will be met when the design engineering study is complete.

SENATOR MIKULSKI: EPA funded a brief study of some of the ventilation systems at Waterside Mall by the building owner's contractor. The Agency and unions agreed that a new study was necessary because this contractor's draft report was a disappointment. The Agency is in the process of selecting another design engineering firm to conduct a comprehensive investigation to determine if the Headquarters buildings meet ASHRAE, have adequate heating, cooling, air flow and distribution of air.

When will this new study be funded? When will it be completed? How much will it cost? How will the study recommendations be implemented?

ANSWER: The initial reports from the contract are already in and are extremely valuable. We now have a complete set of floor plans for the Waterside Mall complex that shows the air handling zones and the location of the air handlers servicing each zone. We also have a series of recommended actions for improving the air quality in this building. We are in the process of awarding several contracts that implement these recommendations. One of those contracts is for the design of modifications to the HVAC system that will result in attainment of the new ASHRAE standard. We estimate that this new study will cost $250,000 and take six months to complete.

SENATOR MIKULSKI: If the building owners are charged with making the necessary physical modifications, will EPA provide oversight to ensure modifications comply with ASHRAE?

ANSWER: If the building owners are charged with making physical modifications, we will provide oversight to assure that all specifications of the design documents are met.

SENATOR MIKULSKI: The employee indoor air health survey released in November 1989, showed unacceptably high levels of sick building symptoms among employees in all three Headquarters buildings. (Up to 60% of employees had symptoms.)

How do you identify/track employee illness on a routine basis so you can determine if illnesses are increasing or decreasing?

ANSWER: Complaints of symptoms or illnesses identified by EPA employees are typically brought to the attention of individual managers and supervisors. They, in turn, refer such employees to the EPA's on-site Headquarters' Health Units where they may be seen by the medical staff for diagnosis, treatment, and referral (if necessary) free of charge. The Headquarters' Health Units have established a medical monitoring program for such employees, and they monitor trends and report their analyses to the Environmental Health and Safety Division (EHSD). A small number of employees, those who choose to be seen exclusively by their own physician - and not in the Health Unit - cannot be monitored or tracked under the existing system.

The Health Unit provides EHSD with statistical and other non-confidential information about employee reports of symptoms and illnesses. EHSD uses monthly medical statistical reports generated by the Health Unit and data it gathers from other sources, to track such employee complaints and to identify trends. During 1989, of the approximately 5,500 Headquarters employees, an average of eight individual employees per month were monitored and tracked by the Health Unit for self-reported Indoor Air Quality (IAQ) symptoms; there was an average of twelve visits per month by employees to the Health Unit who complained of IAQ related symptoms. However, a substantial number of these were multiple visits to the Health Unit by the same employees. The number of employees monitored during the latter part of 1989 reflects a substantial decrease over previous periods.

SENATOR MIKULSKI: Do employees know they can go to the Health Unit?

ANSWER: Yes, EPA has always been concerned with the provision of adequate health care facilities and programs for its employees. Accordingly, EPA maintains medically-staffed Health Units at each of its Waterside Mall, Crystal City, and Fairchild locations. In addition to Health Unit services being publicized in the EPA Headquarters directory and a variety of Agency service guides, they are advertised through annual Health Fairs, health education activities, bi-monthly wellness newsletters, special health screening bulletins, and in various meetings. Managers and supervisors have been informed periodically of their responsibilities to refer employees to the Health Unit.

SENATOR MIKULSKI: When was the last time there was a written notification to employees telling them to go to the Health Unit?

ANSWER: The most recent written notification to employees about the availability of Health Unit services was conducted in March, 1990.

SENATOR MIKULSKI: How are complaints tracked, compiled and analyzed?

ANSWER: The compilation, analysis, and distribution of health and safety related information about IAQ complaints is coordinated through EHSD. For example, information about the results of environmental monitoring conducted in response to an indoor air related complaint is provided to the managers or supervisors whose call initiated the action.

The Health Unit provides monthly reports which summarize a variety of complaints. Should a trend indicate a potential health problem that could adversely affect numbers of employees, specialized support is requested from the Health Unit. The data generated from these activities is further analyzed by EHSD to determine if new policy, surveys, studies or building/environment modifications are required to ensure optimal employee health.

SENATOR MIKULSKI: Who gets a report of employee illnesses?

ANSWER: Employees' reports of illnesses may be received by EPA managers, supervisors, Health Unit, and/or EHSD depending upon the situation.

SENATOR MIKULSKI: How much money will be spent on routine health monitoring?

ANSWER: EPA HQ has several activities that are included in the health monitoring programs. These include comprehensive physical exams, blood pressure screening, glaucoma tests, cholesterol levels, sickle cell screening, etc. Of most relevance to this discussion, however, is our indoor air medical monitoring program which was initiated in November of 1988. The total cost of routine headquarters health monitoring, including the specialized IAQ program, will be $400 thousand for Fiscal Year 1990.

SENATOR MIKULSKI: Have symptom levels decreased in all three buildings since the health survey was taken?

ANSWER: Yes, the total number of employees entering the IAQ medical monitoring program has decreased substantially. Furthermore, the number of employee visits to the Health Unit for IAQ medical monitoring has decreased significantly over time.

SENATOR MIKULSKI: When will I have a report on levels of illness?

ANSWER: I will furnish you with an illness report in my April monthly update.

SENATOR MIKULSKI: Will there be another employee indoor air health survey so we can determine if illness levels have decreased?

ANSWER: We have a series of facility related improvements which we are focusing on. Once those are in place, we will decide whether a second survey is appropriate, or whether we will concentrate on health unit data.

SENATOR MIKULSKI: Will there be long-term studies to measure cancer rates and other illnesses?

ANSWER: At the present time, we do not envision conducting any long-term studies to measure cancer rates and other illnesses among EPA Headquarters personnel. However, long-term studies on the effects of indoor air pollution are being conducted by a variety of federal and private sector research groups. We will continue to monitor the results of pertinent studies, and incorporate significant findings into our indoor air quality management plan, as appropriate.

SENATOR MIKULSKI: How much money in the budget will be spent on a health survey and long-term health monitoring?

ANSWER: We could not give you a dollar figure until we decide how to proceed on any further surveys.

SENATOR MIKULSKI: Who is responsible for solving the indoor air problem at EPA Headquarters?

ANSWER: Solving the indoor air problem at EPA will require work and cooperation by employees, management and the unions, as well as OMB, the Congress, and GSA. The Office of Administration and Resources Management (OARM) is responsible for analyzing the problem recommending solutions, and managing appropriated funds to solve those problems which can be addressed by dollar expenditures.

SENATOR MIKULSKI: Is the Office of the Administrator directly involved in this issue? If yes, then how?

ANSWER: The Administrator's office has been kept up-to-date on this issue by periodic briefings and memorandums and by direct meetings with OARM management, the union leadership, and affected employees.

OVERALL ENVIRONMENTAL COMPLIANCE

SENATOR MIKULSKI: Assuming the President's budget request for EPA is approved by Congress, and enacted, please indicate all statutory and regulatory requirements or goals, if any, pursuant to federal environmental laws (with the exception of Superfund discussed above) with which EPA has complied or is not likely to comply by the end of FY 91, or during FY 92. If lack of sufficient funds is a factor for such noncompliance, please indicate for each requirement or goal how much additional funding would be necessary for the FY 91 EPA budget and each EPA appropriations account to which such funds would need to be added.

OVERALL ENVIRONMENTAL COMPLIANCE
Environmental Protection Agency

Statute: **SHORE PROTECTION ACT OF 1988**

Requirement: **33 U.S.C. 2601, et al; P.L. 100-688, Section 4201(a).** Report to Congress on necessity for requiring installation of tracking systems on vessels transporting municipal and commercial waste in coastal waters. Statutory deadline November 1990.

Status: $3 million authorized but no funding appropriated for implementation of the Shore Protection Act (SPA). Report to Congress unlikely to be initiated by statutory deadline due to use of existing EPA resources for priority SPA regulation development tasks. Report preparation in FY 1991 dependent on status of waste handling regulations. Anticipate preparation of report in FY 1992.

Requirement: **33 U.S.C. 2601, et al; P.L. 100-688, Section 4103(b).** Development of waste handling regulations for vessels transporting municipal or commercial wastes in coastal waters, including on-loading and off-loading facility operations. No statutory deadline.

Status: No funding appropriated for implementation of SPA. Existing resources directed toward working with U.S. Coast Guard on development of SPA permit program regulations and development of draft guidance regarding proper waste handling procedures. Formal EPA action to develop waste handling regulations initiated April 1990. By mid-FY 1991, draft EPA waste handling regulations expected to be released for public comment. Final promulgation of EPA waste handling regulations expected in FY 1992.

Statute: **SAFE DRINKING WATER ACT AMENDMENTS OF 1986**

Requirement: **Section 1412.** Publish Maximum Contaminant Levels Goals (MCLGs) and promulgate National Primary Drinking Water Regulations (NPDWRs) for at least 40 contaminants from List of 83. Statutory deadline June 19, 1988.

Status: Agency has partially met the requirements to promulgate NPDWRs for at least 40 contaminants. Total Coliform Rule, published in final on June 29, 1989, established NPDWRs for five microbiological contaminants. On May 22, 1989, the Agency proposed the Phase II Rule which will establish NPDWRs for 38 inorganic and synthetic organic chemicals. Pursuant to a consent decree, the Administrator will sign a Federal Register (FR) notice in December 1990 to promulgate this regulation.

Requirement: **Section 1412.** Publish MCLGs and promulgate NPDWRs for remaining contaminants from List of 83. Statutory deadline June 19, 1989.

Status: Plan to promulgate NPDWRs for remaining contaminants in four separate rules: Lead and Copper Rule, Phase V Rule, Radionuclides Rule, Arsenic Rule:

Lead and Copper Rule: Current NPDWR for lead promulgated in 1975. On November 13, 1985, published proposed MCLGs for lead and copper, which were reproposed on August 18, 1988 to satisfy requirements in the 1986 Amendments that MCLGs and

NPDWRs be proposed and promulgated simultaneously. Over 3,000 public comments and 200 Congressional inquiries were received on the 1988 proposal, and considerable new data on the occurrence of lead in drinking water has been collected. Analyzing additional data and responding to comments has been a time-consuming process requiring extensive effort by the Agency. As a result, June 1989 deadline missed. Review of the many technical, policy and legal issues surrounding this rulemaking continues, and the publication of a FR notice of availability of additional information received since the close of the comment period for the 1988 proposal is pending. Under the consent decree, the Administrator will sign a FR notice in December 1990 to promulgate revisions to the Lead and Copper Rule.

Phase V Rule: Rule will set MCLGs and NPDWRs for 24 inorganic and synthetic organic chemicals. Rule published in FR on July 25, 1990 and promulgation scheduled for February 1992.

Radionuclides Rule: Rule will set MCLGs and NPDWRs for six radionuclides. Rule development in progress and proposal expected in January 1991. Promulgation of rule should take place in November 1992.

Arsenic Rule: Agency is delaying revision of arsenic standard because additional research may be needed on health effects of arsenic. Present efforts involve evaluation of potential research projects which could reduce major uncertainties in the risk assessment of arsenic from drinking water exposure.

Requirement: **Section 1412.** Propose MCLGs and NPDWRs for at least 25 additional contaminants from the Drinking Water Priority List. Statutory deadline January 1, 1990.

Status: The Agency plans to propose and promulgate MCLGs and NPDWRs for the additional contaminants in two separate rules, the Disinfection/Disinfection By-Products Rule and the Phase VIB Rule. Current schedule calls for Disinfection/Disinfection By-Product Rule proposal in September 1991, but delay is likely due to high number of unresolved technical issues. Proposal of the Phase VIB Rule is anticipated in June 1992. The Agency has been notified by a citizens group of their intent to sue on the promulgation date for the contaminants in both of these rules. As a result of this suit, a consent decree will likely be set for both rules.

Requirement: **Section 1412.** Publish MCLGs and promulgate NPDWRs for at least 25 additional contaminants from the Drinking Water Priority List. Statutory deadline January 1, 1991.

Status: Present schedule calls for the Disinfection/Disinfection By-Products Rule to be promulgated in September 1993 and the Phase VIB Rule to be published in September 1993. These plans likely to change as a result of lawsuit as described above.

Requirement: **Section 1412.** Promulgate NPDWRs requiring disinfection as a treatment technique for all public water systems. Statutory deadline June 19, 1989.

Status: The Surface Water Treatment Rule promulgated on June 29, 1989 includes mandatory disinfection requirements for surface water systems. The Disinfection/Disinfection By-Products Rule will contain mandatory disinfection requirements for ground-water systems. Status of Disinfection/Disinfection By-Products Rule detailed above.

Requirement: **Section 1412.** Review each NPDWR every three years and publish results in FR. Statutory deadline for Fluoride Rule is April 2, 1989 and for Volatile Organic Contaminants (VOC) Rule is July 8, 1990.

Status: Fluoride Rule review in process, expect to publish findings in FR in 1991. Agency will focus on VOC Rule review after promulgation of List of 83.

Statute: **TOXIC SUBSTANCES CONTROL ACT**

Requirement: **Section 12(b), 45 FR 82844, Export Notification Rule.** Within 5 days of receipt by EPA of notice from exporter, EPA must send export notification letter to destination country.

Status: Due to rapidly increasing volume of notices (quadrupled over the past 4 years) and lack of resources, the Office of Toxic Substances (OTS) was unable to keep up with the need. These issues have been resolved, however, and OTS expects to catch up on the backlog during FY 1991.

Statute: **CLEAN WATER ACT**

Requirement: **Section 402(p).** Stormwater application regulations, general permits package and reports to Congress.

Status: Stormwater is a very controversial area. The final permit application regulation has been delayed to adequately address the resource concerns raised by the Regions. These concerns led to the development of a draft notice requesting comments on general permits and associated regulatory modification, which were unanticipated when the FY 1990 schedules and budget were developed. The permit application regulations were due by statute by February 4, 1989, and the Agency is under a consent decree to promulgate them by October 31, 1990. Permit applications are due one year from promulgation of regulations. Activities addressing currently unpermitted discharges have begun with the development of the draft general permits, and will continue at accelerated levels for at least the next 3 years. The first report to Congress under Section 402(p) (due October 1, 1988) is being modified to reflect the final permit application regulations and to provide Congress with a description of Agency action. The first report has been delayed to FY 1991, with the second report (due October 1, 1989) to follow.

Requirement: **Section 304(m), 40 CFR Subchapter N (various parts).** Promulgation of regulations identified in EPA's initial Effluent Guidelines Plan. Due February 4, 1991.

Status: EPA will promulgate six regulations (subject to the deadline) between 1992 and 1995. As stated in EPA's plan published January 2, 1990, this schedule is the most expeditious the Agency can commit to given the complex requirements of the Clean Water Act for developing effluent guidelines. We are currently defending this rulemaking schedule in district court litigation.

Requirement: **Section 405.** Promulgate sewage sludge use and disposal standards with specific pollutant limits to protect public health and the environment. Phase 1 regulations due August 31, 1987, and Phase 2 regulations due July 15, 1988.

Status: The statute calls for regulations in two phases. The first phase regulations must address those pollutants, identified on the basis of available information, that may adversely affect public health and the environment. The second phase must address pollutants not identified in the first phase. EPA's current schedule provides for promulgation of the phase 1 regulations in December 1991. The schedule for Phase 2 is not yet known.

Statute: **SOLID WASTE DISPOSAL ACT**

Status: Delays in meeting statutory deadlines attributed to a combination of competing priorities, lack of appropriate data, lawsuits, resolution of specific issues with OMB and the availability of resources.

Requirement: **Section 3014(c)(2)(A).** Used oil management standards. Statutory deadline November 1986; projected completion July 1992.

Requirement: **Section 3014(b).** Used oil listing. Statutory deadline November 1985; projected completion July 1992.

Requirement: **Section 3004(q).** Burning and blending technical standards. Statutory deadline November 1986; projected completion March 1991.

Requirement: **Section 3004(o)(5)(A).** Double liner/leachate collection. Statutory deadline November 1986, undetermined projected completion date.

Requirement: **Section 3004(c).** Containerized liquids in landfills. Statutory deadline February 1986, projected completion July 1994.

Requirement: **Section 3004(o)(5)(A).** Leak detection. Statutory deadline May 1987, projected completion September 1992.

Requirement: **Section 4010(c).** Revised Subtitle D criteria. Statutory deadline March 1988, projected completion October 1990.

Requirement: **Section 3005(c)(2).** Post-closure permits for land disposal units. Statutory deadline November 1988, projected completion FY 2000.

Requirement: **Section 3004(o)(7).** Location standards. No statutory deadline, projected completion April 1993.

Requirement: **Section 3004(g)(4).** Land disposal restrictions - newly listed wastes. Statutory deadline 6 months after listing, projected completion March 1992.

Requirement: **Section 3001(b)(3)(C).** Utility waste regulatory determination. Statutory deadline September 1988, projected completion undetermined.

Requirement: **Section 3001(b)(3)(C).** Cement kiln dust regulatory determination. Statutory deadline 6 months after report to Congress, projected completion April 1996.

Requirement: **Section 8002(o).** Report - cement kiln dust. Statutory deadline October 1983, projected completion October 1995.

Requirement: **Section 3001(e)(1).** Listing - wood preserving wastes. Statutory deadline November 1985, projected completion November 1990.

Requirements: **Section 3001(e)(2).** Statutory deadline February 1986. Listings and projected completions as follows:

- o Other dioxins, April 1998.
- o Additional dimethylhydrazine, September 1993.
- o Additional carbamates, October 1994.
- o Linuron, September 1992.
- o Bromicil, February 1992.
- o Solvents II, April 1992.
- o Lead alkyls, December 1992.
- o Additional organobromides, April 1998.
- o Azo dyes, February 1992.
- o Additional dyes and pigments, September 1999.
- o Coke by-products, November 1991.
- o Additional inorganic chemical industry wastes, October 1998.
- o Chlorinated aromatics, July 1992.
- o Paint production wastes, December 1992.
- o Coal slurry pipeline effluent, December 1996.
- o Refining wastes, December 1990.
- o Additional refining wastes, April 1995.

Requirement: **Section 9003(a) and (c); 280 subparts B, C, D, E and G.** Required to develop regulations for all underground storage tanks; however, the following tanks have been deferred from regulatory coverage at this time: field constructed tanks, radioactive materials tanks, airport hydrant systems tanks, emergency power generator tanks.

Status: Technology does not currently exist.

Requirement: **Section 9003(d), Part 282.** All tanks required to establish financial responsibility. However, hazardous substances tanks financial responsibility has been deferred.

Status: Deferred due to current unavailability of commercial insurance.

Statute: **CLEAN AIR ACT**

Requirement: **Section 109(d)(1).** National Ambient Air Quality Standards (NAAQS) -- review of existing standards is required at five-year intervals.

Status: **Nitrogen Dioxide NAAQS** last reviewed in June 1985. Subsequent information is under review and standard will be revised if needed. Complete review of criteria document and staff paper projected by June 1992.

Carbon Monoxide NAAQS last reviewed in September 1985. Subsequent information is under review and standard will be revised if needed. Scientific advisory committee review of draft criteria document projected in December 1990.

Lead NAAQS. Subsequent information since promulgation of standard is under assessment. Scientific advisory committee has completed review of revised criteria document and staff paper. Notice of Proposed Rulemaking projected for Fall 1991.

Ozone NAAQS. Information since last revision of standard is under assessment. Scientific advisory committee has completed review of revised criteria document and staff paper. EPA is continuing standard review to resolve issues on adequacy of current form and time of averaging.

Sulfur Oxides NAAQS. EPA published proposed decision not to revise standard on April 26, 1983, 53 FR 14926. EPA is continuing its standard review in light of the public comments on the proposal.

Requirement: **Section 110(c) and 172**. Federal Implementation Plans (FIPs) - promulgate regulations for a FIP when states fail to submit a plan, obtain approval or make certain revisions.

Status: Listed below are FIPs whose issuance is or is likely to be past the statutory deadline:

FIP to attain **ozone NAAQS in Ventura area (California)**. Statutory deadline December 5, 1989; court-ordered deadlines June 28, 1991 (for final "Phase I FIP") and February 28, 1992 (for final "Phase II FIP"). Proposal of "Phase I FIP" due under court order by October 29, 1990, and expected is to be issued by that date; other actions expected to be taken by court-ordered deadlines.

FIP to attain **ozone and carbon monoxide NAAQS in South Coast Air Basin (Los Angeles area)**. Statutory deadline March 22, 1989; court-ordered deadline February 29, 1991 for final FIP (subject to possible extension of three months). FIP proposal issued July 31, 1990; projected completion of final FIP by court-ordered deadline.

FIP to attain **ozone NAAQS in Sacramento**. Statutory deadline February 1, 1990; court-ordered deadline February 26, 1992 for final FIP. Projected completion of final FIP by court-ordered deadline.

FIP to attain **ozone and carbon monoxide NAAQS in Fresno County and ozone NAAQS in Kern County (California)**. Statutory deadline May 16, 1991. No projection of completion date, but it will not be completed by May 1991.

FIP to attain **ozone NAAQS in Chicago area (Illinois and Indiana)**. Statutory deadline November 30, 1989; court-ordered deadlines to complete final FIP extending to 1993 or 1994 (depending on circumstances). Projected completion by court-ordered deadlines.

FIP to attain **carbon monoxide NAAQS in Phoenix and Tucson**. Court-ordered deadline November 26, 1990. Projected completion by court-ordered deadline.

Revision of the **Visibility FIP for Arizona to remedy winter impairment in the Grand Canyon National Park**. Under court order, proposed rule is to be promulgated by February 1, 1991 and final rule six months after close of comment period.

FIPs for **particulate matter (PM10) NAAQS is required for areas for which states have not yet submitted State Implementation Plans (SIPs) or whose SIPs EPA disapproves**. Under settlement agreement, FIPs for two areas in Utah to be issued by December 1991 if SIPs not approved by then. Lawsuit pending on other areas.

Requirement: **Section 111(b)(1), (f).** Promulgate New Source Performance Standards (NSPS) for listed categories within five years of listing. Every four years, EPA is to review and if necessary revise such standards.

Status: Standards have not been issued for the categories listed below. Unless an earlier completion date is indicated below, completion is not projected by FY 1992. The required reviews have not been completed on 35 existing NSPS.

Synthetic Organic Chemical Manufacturing Industry - NSPS for equipment leaks, storage vessels, air oxidation units and distillation operations have been promulgated. NSPS for reactor processes and other sources still under development. Projected FY 1992.
Dry Cleaning: Perchloroethylene NSPS proposed; under court order to promulgate National Emissions Standards for Hazardous Air Pollutants (NESHAP) or NSPS or delist within 2 years of enactment of Clean Air Act Amendments; projected for FY 1992. NSPS promulgated for petroleum dry cleaning.
Polymers and Resins: Acrylic Resins.
Stationary Internal Combustion Engines - NSPS proposed.
Foundries: Steel and Gray Iron.

Polymers and Resins: Polyethylene - NSPS proposed, projected FY 1991.
Charcoal Production.
Synthetic Rubber: Styrene Butadiene Rubber - NESHAP under development, NSPS promulgted for tire manufacturing.
Vegetable Oil Manufacturing.
Plywood Manufacturing.
Secondary Aluminum.
Polymers and Resins: Phenolic.
Polymers and Resins: Urea-Melamine - NSPS proposed, projected FY 1991.
Polymers and Resins: Polystyrene.
Polymers and Resins: ABS-SAN Resins.
Fiberglass.
Polymers and Resins: Polypropylene - NSPS proposed, projected FY 1991.
Textile Processing.
Ammonium Nitrate.
Polymers and Resins: Polyester Resins - NSPS proposed, projected FY 1991.
Starch.
Uranium Refining.
Organic Solvent Cleaning - NSPS proposed.

Requirement: **Section 112(b)(1)(B).** National Emissions Standards for Hazardous Air Pollutants are to be proposed within 180 days of listing and final rule within 180 days of proposal absent finding clearly not hazardous.

Status: Coke oven emissions has been listed, and a proposed rule was published April 23, 1987. Further actions to be evaluated in light of Clean Air Act Amendments pending in Congress. Projected completion FY 1992.

Requirement: **Section 166(a).** Prevention of Significant Deterioration - provide increments or equivalent measures to prevent significant deterioration of air quality.

Status: EPA has not promulgated measures for the criteria pollutants ozone, carbon monoxide, lead or PM10. Completion by FY 1992 is not projected except in the case of PM10.

Requirement: **Section 202.** Heavy Duty Emissions Standards for NOx. Periodic revision of standards for heavy duty engines is needed.

Status: Legislative changes pending. If not changed, action on revision to proceed.

Requirement: **Section 211(e).** Promulgate rules to implement authority with respect to testing of fuels and fuel additives by August 1978.

Status: Under Consent Decree, EPA is required to promulgate final rule by June 1, 1993.

Requirement: **Section 404.** Report to Congress on Air Pollution Emissions from Railroad Locomotives.

Status: Report pending OMB clearance.

QUESTIONS SUBMITTED BY SENATOR LEAHY

CONSTRUCTION GRANTS PROGRAM

SENATOR LEAHY: The Administration proposes a large cut from current services in the Wastewater Treatment Construction program, down to $1.6 billion.

It is my understanding that the EPA's own survey suggests that the national need for funds for wastewater construction is in the $80 billion range. Is this the case? Given an Administration request that is only two-thirds of the authorized level for the program, what sources would fill the funding gap left by federal cuts?

ANSWER: EPA's 1988 Needs Survey identified $83 billion in design year 2008 needs. However, approximately $50 billion was identified in the survey as "core" needs. The State Revolving Loan program is not designed to provide assistance to address all these needs and neither was the traditional Construction Grants program. Our basic policy has always been that the cost of facilities should be borne by the users and that the Construction Grants and State Revolving Fund programs are there to assist but not replace this responsibility of the user community.

SENATOR LEAHY: According to EPA projections, if $1.6 billion is added to state SRFs each year for the remaining authorized life of the program, how long will it take states to meet the level of need that the EPA cited in 1988?

ANSWER: The answer to this question depends a great deal on the asset management decisions and loan financing arrangements undertaken by each SRF manager. If $1.6 billion is added to the state revolving loans for each of fiscal years 1991, 1992, 1993, and 1994, the total purchasing power of the SRFs over 20 years could approach $30 to $35 billion. While this amount is close to 40% of the funds necessary to address all needs, it does finance most of the "core" needs identified in the 1988 Annual Needs Survey.

ASBESTOS IN SCHOOLS FUNDING

SENATOR LEAHY: I see that the Administration is proposing no funding for grants and loans to remove asbestos hazards from our schools, when the Congress in FY 1990 approved funding of approximately $50 million.

Given the clear public health danger that asbestos in schools presents, along with the large number of schools that have received no funding, and the proven effectiveness of this program, what is the Administration's rationale for trying to eliminate this program? What course of action do you recommend to asbestos-endangered schools if these federal funds are eliminated?

ANSWER: It is the Administration's position that Federal funding provided thus far for asbestos in schools loans and grants (over $245 million from 1985 through 1990) has addressed the worst threats and neediest schools, and that asbestos abatement is best handled at the state and local levels.

EPA recommends that schools first carefully evaluate the actual need and cost for asbestos abatement, in accordance with the requirements of the Asbestos Hazard Emergency Response Act (AHERA) schools rule. If funding for abatement projects is necessary, EPA would suggest that funding sources may be found at the state and local levels.

EURASIAN MILFOIL PROGRAM

SENATOR LEAHY: In February of 1990, the State of Vermont applied for $588,000 from the Clean Lakes Demonstration program to fund a Eurasian milfoil control program on Lake Bomoseen in Castleton, Vermont. Can you tell me the status of this application, and when the State can expect an answer from the agency? How many competing applications have been received for this funding?

ANSWER: The Vermont application for funds from the Clean Lakes Demonstration program is currently under review. We are planning to complete the review process by the end of May. The State of Vermont will be notified at that time. The only "competing" application received to date is from Lake Worth, Texas, which has applied for $2,000,000.

LAKE CHAMPLAIN STUDY

SENATOR LEAHY: The State of Vermont last month also submitted an application for $120,000 in Clean Lakes funding to complete a diagnostic-feasibility study of phosphorous on Lake Champlain. This is a well-designed program necessary to preventing further pollution of this critical habitat. Can you tell me the status of this application, and when the State can expect an answer from the agency?

ANSWER: The application has been received and is currently under review. We are planning to complete the review by the end of May. The State of Vermont will be notified at that time.

PESTICIDE EXPOSURE OF FARMWORKERS

SENATOR LEAHY: Over the past two years, the Congress has appropriated $500,000 to the EPA for a two-year study of the impact of pesticide exposure on the health of farmworkers. This is an area of increasing concern to me. Please tell me of the status of this work. Is the study on track? When do you expect to present the Congress with the final results?

ANSWER: $250,000 was appropriated and obligated in FY 89 for the first year of a two-year study of pesticide exposure of farmworkers. The second year of the project will be funded with $250,000 appropriated in FY 90. The project will study the health of migrant farmworkers and their families in Ohio and again in Florida.

FY 1988 funds were used to design two protocols: an epidemiological study of the health effects of pesticides on migrant farmworkers, and a study of the feasibility of using biomarkers to determine exposure. The FY 1989 add-on funded the first year of a two-year epidemiological study, which recently received Human Subjects Review Board approval.

The bulk of work for the first year of the epidemiological study will begin in June when farmworkers arrive in Ohio. Dr. Marion Moses, Director of the study, is on track. She has begun preliminary work, meeting with the study's advisory board, arranging for medical facilities in Ohio, hiring research assistants and securing office space in both Ohio and Florida. She is currently working with Dr. Patricia Buffler, an epidemiologist with the School of Public Health at the University of California at Berkeley, to finalize the occupational health history form so that it can be translated into Spanish and pilot tested this spring. Dr. Moses has also done preliminary work contacting workers in Ohio and then assuring that she will be able to follow their health when they return to Florida in the fall.

The health and pesticide exposure of the migrant farmworkers and their families will be studied again in Florida in the winter and early spring months. Data will then be analyzed and final results of the study are expected early 1992.

OMB INVOLVEMENT IN FIFRA

SENATOR LEAHY: Mr. Administrator, I have indicated to you the importance that I and other members of Congress attach to the success of the implementation of FIFRA '88. The reexamination of older pesticides is critical to the integrity of the EPA program and to the safety of our food supply. A new disturbing concern is the reported involvement of OMB in the implementation of the reregistration deadlines. As you know, Congress laid out a very clear mandate for the agency and gave it the needed authority to require pesticide manufacturers to provide certain data within specific deadlines. Please provide to me and the committee a description of the role OMB has played in this process and an assessment of the impact that involvement has had or could have on FIFRA '88. Any attempt to compromise statutory deadlines included in FIFRA '88 is completely contrary to the spirit and letter of the law.

ANSWER: OMB has played an active role in the implementation of FIFRA '88, as would be expected for such a major program involving significant resources and information collection needs.

OMB staff were closely involved in the review of the FIFRA '88 Nine Year Plan, and the related apportionments of resources from the FIFRA revolving fund, and associated workyears, in FY 1989 and FY 1990. OMB also reviewed and approved the workyears to be funded by the FIFRA revolving fund, which are included as part of the FY 1991 President's Budget request. OMB has apportioned the full dollar amounts shown in the Nine Year Plan for FY 1989 and FY 1990, although cash flow limitations reduced the amount that could be used in FY 1989. The FY 1991 budget request for FIFRA '88 funded workyears is fully consistent with the current version of the Nine Year Plan.

The Nine Year Plan is being revised based on better estimates of workload unit costs, reduced reregistration cases being supported, and improved estimates of total fees. OMB will review this revised plan.

OMB approval is also needed for information collection requests as required by the Paperwork Reduction Act (PRA). The purpose of the Act and OMB's review is to ensure that any collection of information (1) is the least burdensome necessary for the proper performance of the Agency's functions to comply with legal requirements and achieve program objectives, (2) is not duplicative of information otherwise accessible to the Agency, and (3) has practical utility. The PRA also establishes procedures for the public to comment on any individual information collection request.

Since FIFRA '88 was signed, EPA has submitted six information collection requests to implement various provisions of the law, including the Pesticide Maintenance Fee, FIFRA Reregistration Fees, FIFRA '88 Phase I/II, FIFRA '88 Phase III, data generation for reregistration and the special review/generic data program. Some of the collections stimulated substantial public comment. EPA and OMB worked together to address questions and concerns raised by the commenters and to make changes to the information collections where appropriate. OMB's review of these collections resulted in many clarifications and burden reductions while still meeting the Agency's information needs. All six information collection requests were approved within the 90 days allowed for OMB review.

OMB granted EPA "generic clearances" for several of these collections. A "generic clearance" generally gives EPA the authority to conduct any information collection request related to the program or plan discussed in the supporting statement without obtaining a separate OMB approval for each collection. This saves the Agency and OMB substantial time and resources for reviewing each individual information collection. However, a "generic clearance" also eliminates the opportunity for public comments. As a result, OMB added some limited conditions to EPA's authority to collect this information. OMB expects that about 95% or more of the information collections will proceed without any delay under the "generic clearance." Of the remaining 5%, most will meet the criteria of the PRA and proceed after a 15-day OMB review. For a small number of unusual information collections, additional EPA justification, OMB review, and possibly public comment will be necessary for OMB to meet its obligations under the PRA. OMB does not expect these reviews of individual information collections to compromise the statutory deadlines included in FIFRA '88.

GLOBAL WARMING

SENATOR LEAHY: The Administration has waffled on taking actions to stabilize the emission of greenhouse gases. Yet in its November 7, 1989 statement on the Noordwijk Conference on Atmospheric Pollution and Climate Change the White House stated: "President Bush...has agreed with other industrialized nations that stabilization of carbon dioxide (CO2) emissions should be achieved as soon as possible"

Mr. Administrator, we have all been concerned by a lack of strong direction in the Administration to do something about global warming. But after the Noordwijk (pronounced NORD vike) Conference on Atmospheric Pollution and Climate Change in the Netherlands Pres. Bush did say that "the United States has agreed with other industrialized nations that stabilization of carbon dioxide emissions should be achieved as soon as possible."

I would much prefer to see a policy of reduction of greenhouse gasses, but for this Administration, a policy of stabilization would be a step in the right direction.

When are we going to set a time certain for beginning work on stabilizing CO2 emissions?

ANSWER: Work on stabilizing CO_2 emissions has already begun, in effect. The Administration is currently supporting new initiatives on energy efficiency and a substantial program to plant 1 billion trees per year, and is preparing a new energy strategy that stresses the use of renewable sources of energy and will lay out energy futures well into the next century. In addition, the Administration has offered to host the first negotiating session for a global climate convention and continues to support an acceleration in analysis of targets and options as identified at the Noordwijk Conference. All of these actions will contribute in some way to our moving closer to the goal of stabilizing emissions.

At present there is considerable uncertainty about how much future emissions would be likely to rise in this country and other countries without policy intervention, and about the cost of policies to reduce emissions sufficently to offset this growth. A great deal of work is currently underway to improve these estimates for the U.S. and many other countries participating in the Intergovernmental Panel on Climate Change (IPCC). Once countries have advanced their understanding in these areas, meaningful negotiations can be conducted. This process is likely to begin in earnest after the completion of the IPCC reports in the fall. Such an international collaborative process will provide a far more useful response to climate change than anything the U.S. could accomplish on its own.

SENATOR LEAHY: Last year, I included a new global warming initiative in the foreign aid bill. Very simply, it directs the Agency for International Development to get serious about helping developing countries reduce activities that contribute to global warming. Targeted are "key" countries like India, Brazil and Mexico.

What is the EPA doing to support energy and forestry conservation overseas?

ANSWER: In the Office of Policy, Planning and Evaluation, a number of global initiatives are underway or planned. In the forestry and agriculture areas, EPA has been a major sponsor of two technical workshops for the IPCC, one on Tropical Forestry in Brazil, cosponsored with the Brazilian EPA (IBAMA), and one on Agricultural Emissions of Greenhouse Gases in Washington, cosponsored by USDA. We are working with various organizations like NASA, GISS and the Woods Hole Research Center on quantifying the burning of forests and grasslands in the tropics, and on developing remote sensing techniques to measure the emissions of greenhouse gases from biomass burning. In addition, we are examining and mapping the potential for reforestation in tropical countries, and we are developing site-and global-level computer models to evaluate the costs and benefits of reforestation and agroforestry projects. Finally, we are beginning to develop techniques for valuing standing forests, and to develop creative financing mechanisms to encourage the protection and retention of standing forests.

Our Corvallis Laboratory scientists are active in international global climate change research efforts, especially in developing countries. In India, EPA has embarked on a long-term research and technology transfer project for the establishment and management of trees on substandard soils, in cooperation with US AID and India's Ministries of Energy and Environment. In Ghana and Cameroon, we are studying forest ecosystem carbon dynamics. Further cooperative research projects are being planned in the USSR, Niger, Canada, Thailand, Malaysia, Venezuela, Panama, and Brazil. The Corvallis global climatic research program strategic plan calls for a tropical forestry emphasis in FY 92.

In the international energy area, EPA will continue to fund energy case study analyses in a number of key developing and Eastern European countries. These studies are carried out by research or government institutions within the countries and provide improved information on future energy use, related emissions of greenhouse gases and policy options for reducing emissions. Studies in FY89 and 90 have developed projections and broad options for a number of countries - including China, India, Brazil, Indonesia, South Korea, Mexico, Poland and the USSR - and are feeding directly into the IPCC/Response Strategies Working Group/Energy Industry Subgroup Report. In addition, we are working to promote the development and production of energy efficient CFC substitutes and the recovery of methane from landfills, animal wastes, and coal mining activities. We are cosponsoring a workshop on methane emissions from energy and industrial sources to be held in April 1990 in support of the IPCC process. In FY 91, the emphasis will be on developing and evaluating detailed institutional, economic and regulatory programs which countries could adopt to implement key emissions reduction policies.

We have conducted and will continue to carry out global modeling analyses of alternative scenarios of future reference case assumptions and the impact of particular emissions reduction policies on atmospheric concentrations and potential warming. These studies will support the development of U.S. policy negotiating positions with regard to an international convention and possible protocols on global warming. It will also assist in evaluation of proposals put forward by other countries. One key area for analysis will be examination of scenarios of international trading of greenhouse gas emissions reductions under various alternative plans and approaches.

SENATOR LEAHY: Have AID officials contacted you or your staff about coordinating their efforts with yours?

ANSWER: We already have several projects which are being conducted jointly with AID and are currently developing a number of additional joint projects. These will include pilot programs which will assist certain developing countries in formulating least-cost energy investment strategies and packaging these into projects which can be financed by Multilateral Development Banks and private joint ventures. Also planned are assessments of greenhouse gas emissions in specific AID-assisted countries, an environmental handbook for power sector planners, studies examining opportunities for the expanded use of bioenergy and natural gas, and detailed evaluations of the potential for specific technologies (such as biomass energy from agriculture waste and improvements in transportation energy efficiency) in key developing countries. We are currently examining, in conjunction with AID, opportunities for developing technological expertise in energy efficiency and methane recovery in Poland. Other joint projects under consideration include an assessment of the environmental effects of proposed energy investment plans and renewable energy technology demonstration activities.

In addition, we are working with AID and the National Research Council to examine the effects of climate change on agriculture, forests and river basins, and to assess our ability to expand sustainable agriculture to decrease deforestation in the tropics. We are also examining different agricultural practices and policies to reduce greenhouse gas emissions. Our Corvallis laboratory, as mentioned above, has long-term and well established linkages to AID staff.

Finally, we are providing detailed support to AID staff in the preparation of a forthcoming Report to Congress on Global Climate Change. This report examines the potential contribution of developing countries to future emissions of greenhouse gases, to identify those key countries which will contribute the most to future increases in emissions and to recommend specific actions which can be taken to reduce the growth of emissions in developing countries.

SENATOR LEAHY: Do you agree we should be doing more in these key countries?

ANSWER: We believe efforts represent an appropriate response to the needs for technology transfer. Currently, we are working to resolve certain issues, such as funding and technology transfer mechanisms. These issues are now being addressed under the Montreal Protocol for the phase-out of CFCs, and much progress is being made. We have established excellent relationships with the countries which have ratified, or are in the process of ratifying, the Montreal Protocol. We expect these relationships to continue as we proceed with technology transfer activities in the climate change area.

Our strategy has been to improve understanding of emissions in key countries and to work with analysts in those countries to assess technologies and policy options for reducing emissions. Our intent has been to improve the quality of information available in the international debate on options for responding to global climate change, and at the same time to help these key countries to position themselves to make better decisions in the near term on energy development and resource management.

SENATOR LEAHY: What do you think can be achieved? How else can the Congress help?

ANSWER: All of these efforts support EPA's and the U.S. government's interests in climate change in several ways. First, the information developed will directly support development of international negotiating positions for the U.S. government. In addition, much of this work will assist developing and Eastern European countries in improving their understanding of their own options, thus facilitating their serious involvement in international negotiations. Finally, this program will identify ways in which existing financial assistance and technology transfer programs can be strengthened and redirected to assist these countries in limiting emissions while continuing rapid economic growth.

Broadly speaking, the Congress can help in the development of climate change policy by continuing the current constructive dialogue with the Administration and other interested parties on the nature of the global climate change problem, the options for reducing risks and the difficult task of incorporating these objectives into discussions of a broad range of other policy issues being addressed simultaneously, such as energy policy, environmental quality, fiscal policy, and international diplomacy to name a few. Specifically, in the near term, Congress can support the President's proposals on Climate Change science, a major tree planting initiative and the Montreal Protocal. All of these actions will make positive contributions to resolving the difficult problem of global climate change.

GLOBAL WARMING

SENATOR LEAHY: The Administration has cited scientific uncertainty as a reason for not moving faster to reduce global warming. According to the Administration, scientific consensus on the "greenhouse effect" is weaker than scientific consensus on ozone depletion. What would constitute scientific consensus on global warming and when can it be expected?

ANSWER: The question of scientific consensus is an ever-present problem with any issue. There will always be opposing views in any scientific debate. However, in Global Climate Change, there are several elements of a scientific consensus. All current models predict that secular increases in atmospheric CO2 will eventually lead to global warming, all other factors held constant. Nor is there any question that the concentrations of the important greenhouse gases, such as carbon dioxide, are increasing. These are well-understood and empirically verifiable facts. Still in question are the rate, direction, ultimate magnitude, and regional manifestations of climate change due to continued increases in trace gases. Scientific debate over these issues is still very active.

The elements of a scientific consensus are being forged. The Intergovernmental Panel on Climate Change is producing a scientific assessment through the cooperation of a vast spectrum of internationally recognized experts. This assessment, after peer review and acceptance by participating scientists and governments, will provide the first internationally accepted statement of the current state of science in all areas of global climate change.

GLOBAL WARMING

SENATOR LEAHY: I understand that climate scientists believe that it may take fifteen years or more before we have more refined information about the long-term impact of global warming. Carbon dioxide emissions in the US are increasing at the rate of 3 percent per year. Can we afford to wait another 15 years before taking action? As the world's largest consumer of energy and the largest contributor to global warming, what specific action should we take today to conserve energy?

ANSWER: Work on stabilizing CO_2 emissions has already begun, in effect. The Administration is currently supporting new initiatives on energy efficiency and a substantial program to plant 1 billion trees per year, and is preparing a new energy strategy that stresses the use of renewable sources of energy and will lay out energy futures well into the next century. In addition, the Administration has offered to host the first negotiating session for a global climate convention and continues to support an acceleration in analysis of targets and options as identified at the Noordwijk Conference. All of these actions will contribute in some way to our moving closer to the goal of stabilizing emissions.

At present there is considerable uncertainty about how much future emissions would be likely to rise in this country and other countries without policy intervention, and about the cost of policies to reduce emissions sufficently to offset this growth. A great deal of work is currently underway to improve these estimates for the U.S. and many other countries participating in the Intergovernmental Panel on Climate Change (IPCC). Once countries have advanced their understanding in these areas, meaningful negotiations can be conducted. This process is likely to begin in earnest after the completion of the IPCC reports in the fall. Such an international collaborative process will provide a far more useful response to climate change than anything the U.S. could accomplish on its own.

SENATOR LEAHY: Despite disagreements within the Administration about what to do about global warming, I think this is one problem we should not sit back and watch get worse.

Last year, I included a new global warming initiative in the foreign aid bill. Very simply, it directs the Agency for International Development to get serious about helping developing countries reduce global warming, especially "key" countries like India, Brazil and Mexico.

Have you seen the language in our bill I am referring to?

ANSWER: Yes, and we strongly support that initiative.

SENATOR LEAHY: What is the EPA doing to support energy and forestry conservation overseas?

ANSWER: In the Office of Policy, Planning and Evaluation, a number of global initiatives are underway or planned. In the forestry and agriculture areas, EPA has been a major sponsor of two technical workshops for the IPCC, one on Tropical Forestry in Brazil, cosponsored with the Brazilian EPA (IBAMA), and one on Agricultural Emissions of Greenhouse Gases in Washington, cosponsored by USDA. We are working with various organizations like

NASA, GISS and the Woods Hole Research Center on quantifying the burning of forests and grasslands in the tropics, and on developing remote sensing techniques to measure the emissions of greenhouse gases from biomass burning. In addition, we are examining and mapping the potential for reforestation in tropical countries, and we are developing site-and global-level computer models to evaluate the costs and benefits of reforestation and agroforestry projects. Finally, we are beginning to develop techniques for valuing standing forests, and to develop creative financing mechanisms to encourage the protection and retention of standing forests.

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SENATOR LEAHY: How else can the Congress help?

ANSWER: Broadly speaking, the Congress can help in the development of climate change policy by continuing the current constructive dialogue with the Administration and other interested parties on the nature of the global climate change problem, the options for reducing risks and the difficult task of incorporating these objectives into discussions of a broad range of other policy issues being addressed simultaneously, such as energy policy, environmental quality, fiscal policy, and international diplomacy to name a few. Specifically, in the near term, Congress can support the President's proposals on Climate Change science, a major tree planting initiative and the Montreal Protocal. All of these actions will make positive contributions to resolving the difficult problem of global climate change.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

SUPERFUND

SENATOR LAUTENBERG: In the final two years of the Superfund reauthorization, EPA is required by law to commence at least 200 new remedial action starts.

How many starts has EPA currently commenced towards meeting this two-year mandate? Please provide site names and locations.

ANSWER: EPA considers the award of a remedial contract as the start of the construction phase. As of March 16, 1990 EPA has started new remedial actions (RA) at four projects which can be counted towards meeting the two-year RA start mandate. The projects that have been started are: Cannon Engineering in Massachusetts; Katonah Municipal Well in New York; Sinclair Refinery in New York; and South Valley in New Mexico.

SENATOR LAUTENBERG: How many starts that can be counted towards meeting this two-year mandate does EPA project to have accomplished by the end of 1990? Please provide site names and locations.

ANSWER: The Agency plans to initiate new actions at 10 Fund-financed and 36 responsible party (RP) projects by the end of 1990. These projects can be counted towards meeting this two-year mandate. While it is not yet clear exactly which sites will be started, the attached list shows the universe of site names and locations from which these projects will come.

FY 1990 FUNDED PROJECTS (WITHIN BUDGET)

SITE NAME	STATE
FOREST GLEN SUBDIV	NY
WHITMOYER LABS	PA
OLD MIDLAND	AR
AMERICAN CREOSOTE	TN
ABERBEEN PESTICIDES	NC
MW MANUFACTURING	PA
HAVERTOWN PCP	PA
RADIUM CHEMICAL	NY
ROEBLING STEEL	NJ
PURITY OIL SALES	CA
CAPE FEAR	NC
SMUGGLER MOUNTAIN	CO

SUB TOTAL NUMBER OF PROJECTS 12

FY 1990 RP RA STARTS

SITE NAME	STATE
CANNON ENGINEERING	MA
YAWORSKI WASTE LAGOON	CT
GROVELAND WELLS	MA
IRON HORSE PARK	MA
TINKHAM GARAGE	NH
OLD BETHAGE	NY
GE WIRING DEVICES	PR
HUDSON RIVER	NY
KATONAH MUNICIPAL LDFL	NY
CLOTHIER DISPOSAL	NY
SINCLAIR REFINERY	NY
ASBESTOS DUMP	NJ
VEGA ALTA PUBLIC SUPPLY	PR
WILDCAT LANDFILL	DE
NATIONAL STARCH & CHEM	NC
CHEMTRONICS INC	NC
HARRIS CORP/PALM BAY	FL
PERDIDO GROUNDWATER CONTAM	AL
PIONEER SAND CO.	FL
WAMCHEM INC.	SC
OUTBOARD MARINE CORP	IL
BELVIDERE MUNICIPAL	IL
FORT WAYNE REDUCTION	IN
WAUSAU GROUNDWATER	WI
NINTH AVE	IN
VELSICOL CHEMICAL	IL
LASKIN POPLAR OIL	OH
COSHOCTON	OH
MASON COUNTY	MI
SANDS SPRINGS PETROCHEM	OK
DIXIE OIL PROCESSORS	TX
HASTINGS GROUNDWATER	NE
MYSTERY BRIDGE	WY
ATLAS ASBESTOS	CA
COALINGA ASBESTOS	CA
PACIFIC HIDE & FUR	ID

SUB TOTAL NUMBER OF PROJECTS 36

SUPERFUND

SENATOR LAUTENBERG: How many starts that can be counted toward meeting this two-year mandate does EPA project to have accomplished by September 30, 1991, the end of 1991? Please provide site names and locations.

ANSWER: In both 1990 and 1991, the Agency plans to initiate new actions at a total of 26 Fund-financed and 96 RP-financed projects by the end of 1991. While it is not yet clear exactly which sites will be started, the attached list shows the universe of site names and locations from which these projects will come.

FY 1990 FUNDED PROJECTS (WITHIN BUDGET)

SITE NAME	STATE
FOREST GLEN SUBDIV	NY
WHITMOYER LABS	PA
OLD MIDLAND	AR
AMERICAN CREOSOTE	TN
ABERBEEN PESTICIDES	NC
MW MANUFACTURING	PA
HAVERTOWN PCP	PA
RADIUM CHEMICAL	NY
ROEBLING STEEL	NJ
PURITY OIL SALES	CA
CAPE FEAR	NC
SMUGGLER MOUNTAIN	CO

SUB TOTAL NUMBER OF PROJECTS 12

FY 1990 RP RA STARTS

SITE NAME	STATE
CANNON ENGINEERING	MA
YAWORSKI WASTE LAGOON	CT
GROVELAND WELLS	MA
IRON HORSE PARK	MA
TINKHAM GARAGE	NH
OLD BETHAGE	NY
GE WIRING DEVICES	PR
HUDSON RIVER	NY
KATONAH MUNICIPAL LDFL	NY
CLOTHIER DISPOSAL	NY
SINCLAIR REFINERY	NY
ASBESTOS DUMP	NJ
VEGA ALTA PUBLIC SUPPLY	PR
WILDCAT LANDFILL	DE
NATIONAL STARCH & CHEM	NC
CHEMTRONICS INC	NC
HARRIS CORP/PALM BAY	FL
PERDIDO GROUNDWATER CONTAM	AL
PIONEER SAND CO.	FL
WAMCHEM INC.	SC
OUTBOARD MARINE CORP	IL
BELVIDERE MUNICIPAL	IL
FORT WAYNE REDUCTION	IN

WAUSAU GROUNDWATER	WI	
NINTH AVE	IN	
VELSICOL CHEMICAL	IL	
LASKIN POPLAR OIL	OH	
COSHOCTON	OH	
MASON COUNTY	MI	
SANDS SPRINGS PETROCHEM	OK	
DIXIE OIL PROCESSORS	TX	
HASTINGS GROUNDWATER	NE	
MYSTERY BRIDGE	WY	
ATLAS ASBESTOS	CA	
COALINGA ASBESTOS	CA	
PACIFIC HIDE & FUR	ID	
SUB TOTAL NUMBER OF PROJECTS		36

POTENTIAL FOR FIRST FUND FINANCED RA EVENTS FY91

REGION	SITE NAME	STATE
I	NEW BEDFORD SITE	MA
	NORWOOD PCBS	MA
	NYANZA CHEMICAL	MA
	SULLIVAN'S LEDGE	MA
	PINETTE'S SALVAGE YARD	ME
II	NACOLITE CORP	NJ
	ROCKY HILL MUNICIPAL WELL	NJ
	WILLIAMS PROPERTY	NJ
	AMERICAN THERMOSTAT CO.	NY
	PASLEY SOLVENTS & CHEM.	NY
	SEALAND RESTORTATION	NY
	SMS INSTRUMENTS INC	NY
	COMKE FILL SOUTH	NJ
	WALDICK AEROSPACE	NJ
	SHARKEY LANDFILL	NJ
	CHEMICAL INSECTICIDE	NJ
	PREFERRED PLATING CORP.	NY
	BURNT FLY BOG	NJ
III	CRYO-CHEM INC	PA
	DORNEY ROAD SITE	PA
	EAST MT ZION	PA
	C & R BATTERY CO INC	VA
	GREENWOOD CHEMICAL CO	VA
	HEBELKA AUTO SALVAGE	PA
	DORNEY ROAD LANDFILL	PA
	BERKS SAND PIT	PA
	WELSH LANDFILL	PA
IV	COLEMAN-EVANS WOOD PRESER	FL
	WHITEHOUSE WASTE OIL PITS	FL
	ZELLWOOD GROUNDWATER CONT	FL
	ZELLWOOD GROUNDWATER CONT	FL
	SMITH'S FARM BROOKS	KY
	CAROLINA TRANSFORMER	NC
	CAPE FEAR	NC
	AMNICOLA DUMP	NC
	GIEGER (C & M OIL)	SC
	62ND STREET	FL
	SMITH'S FARM	KY
	HIPPS RD LANDFILL	FL
	INTERSTATE LEAD	AL
	BYPASS 601 GROUNDWATER	NC
	SMITH'S BROOK FARM	KY
	ARLINGTON BLENDING & PACK.	TN

V	CROSS BROTHERS PAIL RECY	IL
	TRI-STATE PLATING	IN
	HEDBLUM INDUSTRIES	MI
	OTT/STORY/CORDOVA CHEM	MI
	RASSMUSSEN'S DUMP	MI
	US AVIEX	MI
	LONG PRAIRIE GROUNDWATER	MN
	SOUTH ANDOVER SITES	MN
	WASTE DSPL ENGINEERING INC	MN
	ARCANUM IRON & METAL CO	OH
	BIG D CAMPGROUND	OH
	BOWER'S LDFL	OH
	OAK GROVE SANITARY LDFL	MN
	UNITED SCRAP LEAD CO INC	OH
	ARROWHEAD REFINERY	MN
	CARTER INDUSTRIES	MI
	NATIONAL PRESTO IND.	WI
	NOVACO INDUSTRIAL	MI
	SPRINGFIELD TOWNSHIP DUMP	MI
	KOCH REF CO	MN
	BOWER'S LANDFILL	OH
VI	GURLEY PIT	AR
	GURLEY PIT	AR
	CIMARRON MINING CORP.	NM
	NORTH CAVALCADE STREET	TX
	PESSES CHEMICAL	TX
	SOL/LYNN IND. TRANSFORMER	TX
VII	KEM-PEST LABORATORIES	MO
	ARKANSAS CITY DUMP	KS
VIII	BRODERICK WOOD PRODUCTS	CO
	SMUGGLER MOUNTAIN	CO
	SAND CREEK	CO
IX	SAN GABERIEL VALLEY AREA	CA
	SELMA TREATING CO	CA
	SOUTH BAY ASBESTOS AREA	CA
	LORENTZ	CA
X	FRONTIER HARD CROME INC	WA
	SILVER MOUNTAIN MINE	WA
	WYCKOFF CO/EAGLE HARBOR	WA
	NW TRANSFORMER	WA
TOTAL	83 PROJECTS	

FY 1991 POTENTIAL FIRST RP RA STARTS

REGION	STATE	SITE NAME
I	MA	W.R. GRACE & CO., INC
	MA	INDUSTRI-PLEX
III	PA	AMBLER ASBESTOS PILES
	PA	RAYMARK
IV	SC	WAMCHEM INC
	NC	CHEMTRONICS INC
	MS	FLOWOOD SITE
	KY	AIRCO CARBIDE INC/DIV AIRCO
	KY	B.F. GOODRICH (CALVERT CITY)
	FL	PIONEER SAND CO
	FL	HARRIS CORP./PAM BAY FAC
	AL	PERDIDO GROUNDWATER CONTAM
	TN	NORTH HOLLYWOOD DUMP
	MS	NEWSOM BROTHERS OLD RIECHOLD
	FL	KASSOUF-KIMERLING BATTERY DISPL
V	MI	AMERICAN ANODOC INC
	MN	AGATE LAFE SCRAP YARD
	MI	AUTO ION CHEMICALS INC
	OH	ALSCO ANACONDA
	OH	MIAMI COUNTY INCINERATOR
	OH	FIELDS BROOK
	WI	JANESVILLE ASH BEDS
	WI	JANESVILLE OLD LDFL
VI	NM	SOUTH VALLEY
VII	MO	FINDETT CORP
VIII	UT	PORTLAND CEMENT (KILN DUST 2&3)
IX	CA	FAIRCHILD CAMERA (SAN JOSE)
	TOTAL	27 PROJECTS

FY91 POTENTIAL FIRST RP RA STARTS

FST/SUB STRT	RG	SITE NAME	OP UNIT	EVENT	PLAN STRT
FST	01	ROSE DISPOSAL PIT	01	RA1	911
		SULLIVAN'S LEDGE	01	RA1	914
		GROVELAND WELLS	02	RA1	914
		SOUTH MUNICIPAL WATER SUPPLY WELL	01	RA1	914
		OLD SPRINGFIELD LANDFILL	01	RA1	914
	02	DIAMOND ALKALI CO.	01	RA1	914
		EWAN PROPERTY	01	RA1	913
		YORK OIL CO.	01	RA1	914
		GENERAL MOTORS/CENTRAL FOUNDRY DIV.	01	RA1	914
		HOOKER CHEM S-AREA	01	RA1	913
	03	ARMY CREEK LANDFILL	01	RA1	911
		LIMESTONE ROAD SITE	01	RA1	913
		SALTVILLE WASTE DISP PONDS	01	RA1	914
		US TITANIUM	01	RA1	914
	04	CAROLAWN	01	RA1	914
		POWERSVILLE LANDFILL	01	RA1	912
	05	NL INDUSTRIES/TARACORP LEAD SMELT SITE	01	RA1	914
		WAYNE WASTE OIL	01	RA1	914
		NORTHSIDE SANITARY LDFL	01	RA1	914
		ENVIRO-CHEM CORP	01	RA1	914
		NINTH AVENUE DUMP	01	RA1	913
		LIQUID DISPOSAL INC	01	RA1	913
		CLIFF/DOW DUMP	01	RA1	912
		IONIA CITY LDFL	01	RA1	914
		KOCH REF CO	01	RA1	913
		WASTE DSPL ENGINEERING INC	01	RA2	911
		PRISTINE INC	01	RA1	912
		COSHOCTON LDFL	01	RA1	912
		SCHILLING E H LDFL	01	RA1	911
		MID-STATE DSPL INC LDFL	01	RA1	911
	06	DIXIE OIL PROCESSORS, INC.	01	RA1	914
		KOPPERS CO., INC. (TEXARKANA PLT)	01	RA1	912
	07	CHEMPLEX CO	01	RA1	913
		VOGEL PAINT & WAX CO	01	RA1	913
		NORTHWESTERN STATES PORTLAND CEMENT CO	01	RA1	914
		MASON CITY COAL GASIFICATION	01	RA1	911
		DOEPKE DISPOSAL HOLLIDAY	01	RA1	912
		SUPERIOR SOLVENTS & CHEMICALS INC	01	RA1	914
		SOLID STATE CIRCUITS	01	RA1	912
		HASTINGS GROUNDWATER CONTAMINATION	09	RA1	913
	08	WOODBURY CHEMICAL CO.	01	RA1	912
		BURLINGTON NORTHERN (SOMERS PLANT)	01	RA1	914
		WHITEWOOD CREEK	01	RA1	914
	09	INDIAN BEND WASH AREA	02	RA1	914
		TUCSON INTL AIRPORT AREA	01	RA2	914
		MGM BRAKES	01	RA1	913
		RAYTHEON CORP	01	RA1	914
		LORENTZ BARREL & DRUM CO	02	RA1	912
		INTERSIL	01	RA1	913
FST	09	APPLIED MATERIALS	01	RA1	914
		SOLVENT SERVICE INC	01	RA1	914
		INTEL CORP (MOUNTAIN VIEW PLT)	01	RA1	914
		FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	02	RA1	914
	10	TELEDYNE WAH CHANG ALBANY (TWCA)	02	RA1	914
		GOULD INC	01	RA1	913
		NORTHSIDE LANDFILL	01	RA1	914
		NORTHWEST TRANSFORMER - SALVAGE YARD	01	RA1	914

TOTAL	57
PLUS PREV. PAGE	27
GRAND TOTAL	84

SUPERFUND

SENATOR LAUTENBERG: How many starts that can be counted toward meeting this two-year mandate does EPA project to have accomplished by October 17, 1991?

ANSWER: EPA anticipates no change from its end-of-year 1991 projection of 122 new remedial action starts and the October 17, 1991 time-frame.

SENATOR LAUTENBERG: In light of the President's 1991 budget, is the President or the EPA Administrator assuring that substantial and continuous physical on-site remedial action commences at facilities on the National Priorities List, in addition to those facilities on which remedial action has commenced prior to the enactment of the Superfund Amendments and Reauthorization Act of 1986 (SARA), at a rate not fewer than 200 additional facilities during the final 24 months of SARA?

ANSWER: Based on the amount of funding available in the Trust Fund, the need to maintain a balanced and ongoing program and the statutory prohibitions against overobligating the government, the Agency is not assuring the commencement of at least 200 new remedial action starts by October 1991.

SENATOR LAUTENBERG: How many remedial action projects that can be counted toward meeting the two-year mandate have not yet received funding, but are ready for funding as of the date of your response to this question? Please provide site names and locations, as well as an estimate of the total funds necessary to initiate such projects.

ANSWER: All of the remedial action projects that can be counted toward meeting the two-year mandate and are currently ready for funding have received funding.

SENATOR LAUTENBERG: How many remedial action projects that can be counted toward meeting the two-year mandate do you project will be ready for funding by the end of 1990, but will not receive funding due to lack of available funds? Please provide site names and locations, as well as an estimate of the total funds necessary to initiate such projects.

ANSWER: Twenty-one remedial action (RA) projects that can be counted toward meeting the two-year mandate are projected to be ready for funding by the end of 1990. They will not receive funding due to a lack of resources. Approximately $200 million is necessary to initiate these projects. The site names and locations are attached.

FY 1990 RA STARTS (OVER BUDGET)

SITE NAME	STATE
LORENTZ	CA
AMNICOLA	TN
GEIGER (C & M OIL)	SC
PINETTE'S SALVAGE	ME
SAND CREEK	CO
ARROWHEAD REFINERY	MN
COMBE FILL SOUTH	NJ
ZELLWOOD	FL
HEBELKA AUTO SALVAGE	PA
WALDICK AEROSPACE	NJ
PESSES CHEMICAL CO	TX
ARKANSAS CITY DUMP	KS
62ND STREET DUMP	FL
COLEMAN EVANS	FL
SMITH FARMS	KY
CARTER INDUSTRIAL INC	MI
TRI STATE PLATING	IN
FRONTIER HARD CHROME	WA
NW TRNSFORMER	WA
SHARKY LANDFILL	NJ
INTERSTATE LEAD	AL
TOTAL NUMBER OF PROJECTS	21

SUPERFUND

SENATOR LAUTENBERG: Assuming the President's 1991 budget request for Superfund is the amount appropriated by Congress and enacted, how many remedial action projects that can be counted toward meeting the two-year mandate do you project will be ready for funding by the end of 1991, but will not receive funding due to lack of available funds? Please provide site names and locations, and an estimate of the total funds necessary to initiate such projects.

ANSWER: The total number of 1990 and 1991 remedial actions (RA) projected to be ready for construction by the end of 1991, and that can be counted toward the two-year mandate, is 226. The Agency plans to start RA at 122 of these sites. To start the remaining 78 RAs to meet the two-year mandate will require approximately $650 million and 50 workyears in additional resources. To begin the other 26 RAs would require about another $250 million and 15 workyears. The attached list shows the site names and locations of these projects.

SENATOR LAUTENBERG: Assuming the President's 1991 budget request for Superfund is the amount appropriated by Congress and enacted, how many remedial action projects that can be counted toward meeting the two-year mandate do you project will be ready for funding by October 17, 1991, but will not receive funding due to lack of available funds? Please provide site names and locations, and an estimate of the total funds necessary to initiate such projects by October 17, 1991.

ANSWER: EPA anticipates no change between its end-of-year 1991 projection and the October 17, 1991 time-frame. See the list attached with the above question.

FY 1990 FUNDED PROJECTS (WITHIN BUDGET)

SITE NAME	STATE
FOREST GLEN SUBDIV	NY
WHITMOYER LABS	PA
OLD MIDLAND	AR
AMERICAN CREOSOTE	TN
ABERBEEN PESTICIDES	NC
MW MANUFACTURING	PA
HAVERTOWN PCP	PA
RADIUM CHEMICAL	NY
ROEBLING STEEL	NJ
PURITY OIL SALES	CA
CAPE FEAR	NC
SMUGGLER MOUNTAIN	CO

SUB TOTAL NUMBER OF PROJECTS 12

FY 1990 RP RA STARTS

SITE NAME	STATE
CANNON ENGINEERING	MA
YAWORSKI WASTE LAGOON	CT
GROVELAND WELLS	MA
IRON HORSE PARK	MA
TINKHAM GARAGE	NH
OLD BETHAGE	NY
GE WIRING DEVICES	PR
HUDSON RIVER	NY
KATONAH MUNICIPAL LDFL	NY
CLOTHIER DISPOSAL	NY
SINCLAIR REFINERY	NY
ASBESTOS DUMP	NJ
VEGA ALTA PUBLIC SUPPLY	PR
WILDCAT LANDFILL	DE
NATIONAL STARCH & CHEM	NC
CHEMTRONICS INC	NC
HARRIS CORP/PALM BAY	FL
PERDIDO GROUNDWATER CONTAM	AL
PIONEER SAND CO.	FL
WAMCHEM INC.	SC
OUTBOARD MARINE CORP	IL
BELVIDERE MUNICIPAL	IL
FORT WAYNE REDUCTION	IN
WAUSAU GROUNDWATER	WI
NINTH AVE	IN
VELSICOL CHEMICAL	IL
LASKIN POPLAR OIL	OH
COSHOCTON	OH
MASON COUNTY	MI
SANDS SPRINGS PETROCHEM	OK
DIXIE OIL PROCESSORS	TX
HASTINGS GROUNDWATER	NE
MYSTERY BRIDGE	WY
ATLAS ASBESTOS	CA
COALINGA ASBESTOS	CA
PACIFIC HIDE & FUR	ID

SUB TOTAL NUMBER OF PROJECTS 36

POTENTIAL FOR FIRST FUND FINANCED RA EVENTS FY91

REGION	SITE NAME	STATE
I	NEW BEDFORD SITE	MA
	NORWOOD PCBS	MA
	NYANZA CHEMICAL	MA
	SULLIVAN'S LEDGE	MA
	PINETTE'S SALVAGE YARD	ME
II	NACOLITE CORP	NJ
	ROCKY HILL MUNICIPAL WELL	NJ
	WILLIAMS PROPERTY	NJ
	AMERICAN THERMOSTAT CO.	NY
	PASLEY SOLVENTS & CHEM.	NY
	SEALAND RESTORTATION	NY
	SMS INSTRUMENTS INC	NY
	COMKE FILL SOUTH	NJ
	WALDICK AEROSPACE	NJ
	SHARKEY LANDFILL	NJ
	CHEMICAL INSECTICIDE	NJ
	PREFERRED PLATING CORP.	NY
	BURNT FLY BOG	NJ
III	CRYO-CHEM INC	PA
	DORNEY ROAD SITE	PA
	EAST MT ZION	PA
	C & R BATTERY CO INC	VA
	GREENWOOD CHEMICAL CO	VA
	HEBELKA AUTO SALVAGE	PA
	DORNEY ROAD LANDFILL	PA
	BERKS SAND PIT	PA
	WELSH LANDFILL	PA
IV	COLEMAN-EVANS WOOD PRESER	FL
	WHITEHOUSE WASTE OIL PITS	FL
	ZELLWOOD GROUNDWATER CONT	FL
	ZELLWOOD GROUNDWATER CONT	FL
	SMITH'S FARM BROOKS	KY
	CAROLINA TRANSFORMER	NC
	CAPE FEAR	NC
	AMNICOLA DUMP	NC
	GIEGER (C & M OIL)	SC
	62ND STREET	FL
	SMITH'S FARM	KY
	HIPPS RD LANDFILL	FL
	INTERSTATE LEAD	AL
	BYPASS 601 GROUNDWATER	NC
	SMITH'S BROOK FARM	KY
	ARLINGTON BLENDING & PACK.	TN

V	CROSS BROTHERS PAIL RECY	IL
	TRI-STATE PLATING	IN
	HEDBLUM INDUSTRIES	MI
	OTT/STORY/CORDOVA CHEM	MI
	RASSMUSSEN'S DUMP	MI
	US AVIEX	MI
	LONG PRAIRIE GROUNDWATER	MN
	SOUTH ANDOVER SITES	MN
	WASTE DSPL ENGINEERING INC	MN
	ARCANUM IRON & METAL CO	OH
	BIG D CAMPGROUND	OH
	BOWER'S LDFL	OH
	OAK GROVE SANITARY LDFL	MN
	UNITED SCRAP LEAD CO INC	OH
	ARROWHEAD REFINERY	MN
	CARTER INDUSTRIES	MI
	NATIONAL PRESTO IND.	WI
	NOVACO INDUSTRIAL	MI
	SPRINGFIELD TOWNSHIP DUMP	MI
	KOCH REF CO	MN
	BOWER'S LANDFILL	OH
VI	GURLEY PIT	AR
	GURLEY PIT	AR
	CIMARRON MINING CORP.	NM
	NORTH CAVALCADE STREET	TX
	PESSES CHEMICAL	TX
	SOL/LYNN IND. TRANSFORMER	TX
VII	KEM-PEST LABORATORIES	MO
	ARKANSAS CITY DUMP	KS
VIII	BRODERICK WOOD PRODUCTS	CO
	SMUGGLER MOUNTAIN	CO
	SAND CREEK	CO
IX	SAN GABERIEL VALLEY AREA	CA
	SELMA TREATING CO	CA
	SOUTH BAY ASBESTOS AREA	CA
	LORENTZ	CA
X	FRONTIER HARD CROME INC	WA
	SILVER MOUNTAIN MINE	WA
	WYCKOFF CO/EAGLE HARBOR	WA
	NW TRANSFORMER	WA
TOTAL	83 PROJECTS	

FY 1991 POTENTIAL FIRST RP RA STARTS

REGION	STATE	SITE NAME
I	MA	W.R. GRACE & CO., INC
	MA	INDUSTRI-PLEX
III	PA	AMBLER ASBESTOS PILES
	PA	RAYMARK
IV	SC	WAMCHEM INC
	NC	CHEMTRONICS INC
	MS	FLOWOOD SITE
	KY	AIRCO CARBIDE INC/DIV AIRCO
	KY	B.F. GOODRICH (CALVERT CITY)
	FL	PIONEER SAND CO
	FL	HARRIS CORP./PAM BAY FAC
	AL	PERDIDO GROUNDWATER CONTAM
	TN	NORTH HOLLYWOOD DUMP
	MS	NEWSOM BROTHERS OLD RIECHOLD
	FL	KASSOUF-KIMERLING BATTERY DISPL
V	MI	AMERICAN ANODOC INC
	MN	AGATE LAFE SCRAP YARD
	MI	AUTO ION CHEMICALS INC
	OH	ALSCO ANACONDA
	OH	MIAMI COUNTY INCINERATOR
	OH	FIELDS BROOK
	WI	JANESVILLE ASH BEDS
	WI	JANESVILLE OLD LDFL
VI	NM	SOUTH VALLEY
VII	MO	FINDETT CORP
VIII	UT	PORTLAND CEMENT (KILN DUST 2&3)
IX	CA	FAIRCHILD CAMERA (SAN JOSE)
	TOTAL	27 PROJECTS

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FY91 POTENTIAL FIRST RP RA STARTS

FST/SUB STRT	RG	SITE NAME	OP UNIT	EVENT	PLAN STRT
FST	01	ROSE DISPOSAL PIT	01	RA1	911
		SULLIVAN'S LEDGE	01	RA1	914
		GROVELAND WELLS	02	RA1	914
		SOUTH MUNICIPAL WATER SUPPLY WELL	01	RA1	914
		OLD SPRINGFIELD LANDFILL	01	RA1	914
	02	DIAMOND ALKALI CO.	01	RA1	914
		EWAN PROPERTY	01	RA1	913
		YORK OIL CO.	01	RA1	914
		GENERAL MOTORS/CENTRAL FOUNDRY DIV.	01	RA1	914
		HOOKER CHEM S-AREA	01	RA1	913
	03	ARMY CREEK LANDFILL	01	RA1	911
		LIMESTONE ROAD SITE	01	RA1	913
		SALTVILLE WASTE DISP PONDS	01	RA1	914
		US TITANIUM	01	RA1	914
	04	CAROLAWN	01	RA1	914
		POWERSVILLE LANDFILL	01	RA1	912
	05	NL INDUSTRIES/TARACORP LEAD SMELT SITE	01	RA1	914
		WAYNE WASTE OIL	01	RA1	914
		NORTHSIDE SANITARY LDFL	01	RA1	914
		ENVIRO-CHEM CORP	01	RA1	914
		NINTH AVENUE DUMP	01	RA1	913
		LIQUID DISPOSAL INC	01	RA1	913
		CLIFF/DOW DUMP	01	RA1	912
		IONIA CITY LDFL	01	RA1	914
		KOCH REF CO	01	RA1	913
		WASTE DSPL ENGINEERING INC	01	RA2	911
		PRISTINE INC	01	RA1	912
		COSHOCTON LDFL	01	RA1	912
		SCHILLING E H LDFL	01	RA1	911
		MID-STATE DSPL INC LDFL	01	RA1	911
	06	DIXIE OIL PROCESSORS, INC.	01	RA1	914
		KOPPERS CO., INC. (TEXARKANA PLT)	01	RA1	912
	07	CHEMPLEX CO	01	RA1	913
		VOGEL PAINT & WAX CO	01	RA1	913
		NORTHWESTERN STATES PORTLAND CEMENT CO	01	RA1	914
		MASON CITY COAL GASIFICATION	01	RA1	911
		DOEPKE DISPOSAL HOLLIDAY	01	RA1	912
		SUPERIOR SOLVENTS & CHEMICALS INC	01	RA1	914
		SOLID STATE CIRCUITS	01	RA1	912
		HASTINGS GROUNDWATER CONTAMINATION	09	RA1	913
	08	WOODBURY CHEMICAL CO.	01	RA1	912
		BURLINGTON NORTHERN (SOMERS PLANT)	01	RA1	914
		WHITEWOOD CREEK	01	RA1	914
	09	INDIAN BEND WASH AREA	02	RA1	914
		TUCSON INTL AIRPORT AREA	01	RA2	914
		MGM BRAKES	01	RA1	913
		RAYTHEON CORP	01	RA1	914
		LORENTZ BARREL & DRUM CO	02	RA1	912
		INTERSIL	01	RA1	913
FST	09	APPLIED MATERIALS	01	RA1	914
		SOLVENT SERVICE INC	01	RA1	914
		INTEL CORP (MOUNTAIN VIEW PLT)	01	RA1	914
		FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	02	RA1	914
	10	TELEDYNE WAH CHANG ALBANY (TWCA)	02	RA1	914
		GOULD INC	01	RA1	913
		NORTHSIDE LANDFILL	01	RA1	914
		NORTHWEST TRANSFORMER - SALVAGE YARD	01	RA1	914

TOTAL 57
PLUS PREV. PAGE 27

GRAND TOTAL 84

SUPERFUND

SENATOR LAUTENBERG: How many total remedial action projects (including both those that can be counted toward meeting the two-year deadline and those that cannot be counted toward the deadline) do you project will be ready for funding the end of 1990, but will not receive funding due to lack of available funds? Please provide site names and locations, as well as an estimate of the total funds necessary to initiate such projects.

ANSWER: Fifty-three total Fund-financed remedial action projects (including both those that can be counted toward meeting the two-year deadline (21) and those that cannot be counted toward the deadline (32)) will be ready for funding at end of 1990, but will not receive funding due to the lack of resources. A total of $525 million would be necessary to initiate these projects. The list of site names and locations is attached.

FY 1990 RA STARTS (OVER BUDGET)

SITE NAME	STATE
LORENTZ	CA
AMNICOLA	TN
GEIGER (C & M OIL)	SC
PINETTE'S SALVAGE	ME
SAND CREEK	CO
ARROWHEAD REFINERY	MN
COMBE FILL SOUTH	NJ
ZELLWOOD	FL
HEBELKA AUTO SALVAGE	PA
WALDICK AEROSPACE	NJ
PESSES CHEMICAL CO	TX
ARKANSAS CITY DUMP	KS
62ND STREET DUMP	FL
COLEMAN EVANS	FL
SMITH FARMS	KY
CARTER INDUSTRIAL INC	MI
TRI STATE PLATING	IN
FRONTIER HARD CHROME	WA
NW TRNSFORMER	WA
SHARKY LANDFILL	NJ
INTERSTATE LEAD	AL
TOTAL NUMBER OF PROJECTS	21

FY 1990 SUBSEQUENT RA (NON-200 RAs)

SITE NAME	STATE
HELEVA	PA
IRON MOUNTAIN	CA
COMMENCEMENT BAY	WA
LOVE CANAL/93RD STREET SITE	NY
BLOSENKI LANDFILL	PA
PURITY OIL SALES	CA
CALDWELL TRUCKING CO	NJ
MILCREEK, ERIE PA	PA
SOUTH VALLEY	NM
CALDWELL TRUCKING CO	NJ
D'IMPERIO PROPERTY	NJ
LANG PROPERTY	NJ
NASCOLITE CORP	NJ
PRICE LANDFILL	NJ
HAVILAND COMPLEX	NY
BOLENSKI LANDFILL	PA
DELAWARE SAND & GRAVEL	DE
CARTER INDUSTRIAL, INC	MI
NATIONAL PRESTO	WI
TIMES BEACH OU2	MO
MARATHON BATTERY	NY
ZELLWOOD OU2	FL
BERKS SAND PIT	PA
BURNT FLY BOG	NJ
DORNEY ROAD LANDFILL	PA
AMERICAN CREOSOTE OU2	FL
EAU CLAIRE	WI
FOREST WASTE	WI
LONG PRAIRIE	MN
U.S. AVIAX	MI
NORTH CAVALCADE STREET	TX
CHEROKEE COUNTY	KS

TOTAL NUMBER OF PROJECTS 32

SENATOR LAUTENBERG: Assuming the President's 1991 budget request for Superfund is the amount appropriated by Congress and enacted, how many total remedial action projects (including those that can be counted toward meeting the two-year deadline and those that cannot be counted toward the deadline) do you project will be ready for funding by the end of 1991, but will not receive funding due to lack of available funds? Please provide site names and locations, as well as the funds necessary to initiate such projects.

ANSWER: The total number of sites in 1990 and 1991 that will be ready for remedial action funding (including those that count toward the two-year deadline and those that do not) is estimated to be 348. Of these, 199 will be financed by the Fund or responsible parties while 149 will not receive funding due to a lack of resources. A list of RA starts for Federal facilities also is attached, though these starts are not significantly affected by Superfund resources. The Agency estimates that it would need about an additional $1.2 billion and 100 workyears to address these 149 sites. The universe of site names and locations is attached.

FY 1990 FUNDED PROJECTS (WITHIN BUDGET)

SITE NAME	STATE
FOREST GLEN SUBDIV	NY
WHITMOYER LABS	PA
OLD MIDLAND	AR
AMERICAN CREOSOTE	TN
ABERBEEN PESTICIDES	NC
MW MANUFACTURING	PA
HAVERTOWN PCP	PA
RADIUM CHEMICAL	NY
ROEBLING STEEL	NJ
PURITY OIL SALES	CA
CAPE FEAR	NC
SMUGGLER MOUNTAIN	CO

SUB TOTAL NUMBER OF PROJECTS 12

FY 1990 RP RA STARTS

SITE NAME	STATE
CANNON ENGINEERING	MA
YAWORSKI WASTE LAGOON	CT
GROVELAND WELLS	MA
IRON HORSE PARK	MA
TINKHAM GARAGE	NH
OLD BETHAGE	NY
GE WIRING DEVICES	PR
HUDSON RIVER	NY
KATONAH MUNICIPAL LDFL	NY
CLOTHIER DISPOSAL	NY
SINCLAIR REFINERY	NY
ASBESTOS DUMP	NJ
VEGA ALTA PUBLIC SUPPLY	PR
WILDCAT LANDFILL	DE
NATIONAL STARCH & CHEM	NC
CHEMTRONICS INC	NC
HARRIS CORP/PALM BAY	FL
PERDIDO GROUNDWATER CONTAM	AL
PIONEER SAND CO.	FL
WAMCHEM INC.	SC
OUTBOARD MARINE CORP	IL
BELVIDERE MUNICIPAL	IL
FORT WAYNE REDUCTION	IN

WAUSAU GROUNDWATER	WI
NINTH AVE	IN
VELSICOL CHEMICAL	IL
LASKIN POPLAR OIL	OH
COSHOCTON	OH
MASON COUNTY	MI
SANDS SPRINGS PETROCHEM	OK
DIXIE OIL PROCESSORS	TX
HASTINGS GROUNDWATER	NE
MYSTERY BRIDGE	WY
ATLAS ASBESTOS	CA
COALINGA ASBESTOS	CA
PACIFIC HIDE & FUR	ID

SUB TOTAL NUMBER OF PROJECTS 36

POTENTIAL SUBSQ FUND RA EVENTS FY91

REGION	SITE NAME	STATE
I	BAIRD & MCGUIRE	MA
	CHARLES-GEORGE RECLAMATION	MA
	CHARLES-GEORGE RECLAMATION	MA
	W.R. GRACE & CO. INC	MA
	INDUSTRI-PLEX	MA
II	CALDWELL TRUCKING CO.	NJ
	LIPARI LANDFILL	NJ
	LOVE CANAL	NY
	MARATHON BATTERY	NY
	MARATHON BATTERY	NY
	METALEC/AEROSYSTEM	NJ
	LOVE CANAL 93RD ST SC	NY
	NASCOLITE CORP	NJ
	HAVILAND COMPLEX	NJ
	BURNT FLY BOG	NJ
	PRICE LANDFILL	NJ
III	BERKS SAND PIT	PA
	BLOSENKI LANDFILL	PA
	BLOSENKI LANDFILL	PA
	DRAKE CEMICAL	PA
	HELEVA	PA
	MILL CREEK, ERIE, PA	PA
	DELAWARE SAND & GRAVEL	DE
	AMBLER ASBESTOS PILES	PA
	RAYMARK	PA
IV	ZELLWOOD OU#2	FL
	NORTH HOLLYWOOD DUMP	TN
	NEWSOM BROTHERS OLD RIEC	MS
	KASSOUF-KIMERLING BATTERY	FL
V	ARROWHEAD REF CO	MN
	NATIONAL PRESTO	WI
	EAU CLAIRE	WI
	AGATE LAKE SCRAP YD	MN

	AMERICAN ANODOC INC	MI
	AUTO ION CHEMICAL INC	MI
	ALSOCO ANACONDA	OH
	MIAMI COUNTY INCINER.	OH
	FIELDS BROOK	OH
	JANESVILLE ASH BEDS	WI
	JANESVILLE OLD LDFL	WI
VI	BAYOU BONFOUCA	LA
	SOL LYNN/INDUSTRIAL TRANS	TX
	SOUTH VALLEY SJ-6	NM
	SOUTH VALLEY	NM
VII	ELLISVILLE AREA SITE	MO
	HASTINGS GROUNDWATER CONT	NE
	TIMES BEECH OU2	MO
	CHEROKEE COUNTY	KS
	FINDETT CORP	MO
VIII	DENVER RADIUM SITE	CO
	DENVER RADIUM SITE	CO
	SMUGGLER MOUNTAIN	CO
	SILVER BOW CREEK	MT
	PORTLAND CEMENT (KILN DUST)	UT
IX	IRON MOUNTAIN MINE	CA
	SAN GABRIEL VALLEY (AREA)	CA
	SAN GABRIEL VALLEY (AREA)	CA
	PURITY OIL SALES	CA
	FAIRCHILD CAMERA (SAN J)	CA
X	COMMENCEMENT BAY	WA
TOTAL	60 PROJECTS	

FY 1991 POTENTIAL RP STARTS

01	BEACON HEIGHTS LANDFILL	02	RA1	914
	KELLOGG-DEERING WELL FIELD	02	RA1	914
	RE-SOLVE, INC.	02	RA1	913
	WINTHROP LANDFILL	02	RA1	913
	OTTATI & GOSS/KINGSTON STEEL DRUM	02	RA1	911
	OTTATI & GOSS/KINGSTON STEEL DRUM	03	RA1	914
02	CIBA-GEIGY CORP	01	RA1	914
	LOVE CANAL	05	RA2	911
	SINCLAIR REFINERY	01	RA3	911
	HOOKER CHEM S-AREA	01	RA2	913
	HOOKER CHEM S-AREA	01	RA3	914
	GE WIRING DEVICES	01	RA2	914
03	HARVEY & KNOTT DRUM SITE	01	RA2	914
	KIMBERTON SITE	02	RA1	914
	MCADOO ASSOCIATES	01	RA3	911
04	NATIONAL STARCH & CHEM CORP	02	RA1	914
	CELANESE CORP SHELBY FIBER OPERATIONS	02	RA1	912
	NEWSOM BROTHERS OLD REICHOLD SITE	01	RA2	913
	STAUFFER CHEMICAL CO COLD CREEK PLT	01	RA2	912
	STAUFFER CHEMICAL CO AXIS PLT	01	RA2	912
	CIBA-GEIGY CORP	02	RA1	914
05	VELSICOL CHEM CORP	01	RA2	911
	WAUCONDA SAND & GRAVEL CO	02	RA1	912
	REILLY TAR & CHEM ST LOUIS PARK	03	RA1	912
	REILLY TAR & CHEM ST LOUIS PARK	04	RA1	912
06	MOTCO, INC.	02	RA1	914
	SOL LYNN/INDUSTRIAL TRANSFORMERS	01	RA1	914
07	HASTINGS GROUNDWATER CONTAMINATION	04	RA1	913
08	WOODBURY CHEMICAL CO.	02	RA1	912
	SMUGGLER MOUNTAIN	01	RA3	911
09	TUCSON INTL AIRPORT AREA	01	RA1	914
	TUCSON INTL AIRPORT AREA	01	RA3	914
	FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	01	RA1	914
	COALINGA ASBESTOS MINE	01	RA1	913
	OPERATING INDUSTRIES INC LNDFLL	02	RA1	913
10	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	01	RA1	911
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	01	RA2	914
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	03	RA1	911
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	05	RA3	912
	TOTAL		39	

POTENTIAL FOR FIRST FUND FINANCED RA EVENTS FY91

REGION	SITE NAME	STATE
I	NEW BEDFORD SITE	MA
	NORWOOD PCBS	MA
	NYANZA CHEMICAL	MA
	SULLIVAN'S LEDGE	MA
	PINETTE'S SALVAGE YARD	ME
II	NACOLITE CORP	NJ
	ROCKY HILL MUNICIPAL WELL	NJ
	WILLIAMS PROPERTY	NJ
	AMERICAN THERMOSTAT CO.	NY
	PASLEY SOLVENTS & CHEM.	NY
	SEALAND RESTORTATION	NY
	SMS INSTRUMENTS INC	NY
	COMKE FILL SOUTH	NJ
	WALDICK AEROSPACE	NJ
	SHARKEY LANDFILL	NJ
	CHEMICAL INSECTICIDE	NJ
	PREFERRED PLATING CORP.	NY
	BURNT FLY BOG	NJ
III	CRYO-CHEM INC	PA
	DORNEY ROAD SITE	PA
	EAST MT ZION	PA
	C & R BATTERY CO INC	VA
	GREENWOOD CHEMICAL CO	VA
	HEBELKA AUTO SALVAGE	PA
	DORNEY ROAD LANDFILL	PA
	BERKS SAND PIT	PA
	WELSH LANDFILL	PA
IV	COLEMAN-EVANS WOOD PRESER	FL
	WHITEHOUSE WASTE OIL PITS	FL
	ZELLWOOD GROUNDWATER CONT	FL
	ZELLWOOD GROUNDWATER CONT	FL
	SMITH'S FARM BROOKS	KY
	CAROLINA TRANSFORMER	NC
	CAPE FEAR	NC
	AMNICOLA DUMP	NC
	GIEGER (C & M OIL)	SC
	62ND STREET	FL
	SMITH'S FARM	KY
	HIPPS RD LANDFILL	FL
	INTERSTATE LEAD	AL
	BYPASS 601 GROUNDWATER	NC
	SMITH'S BROOK FARM	KY
	ARLINGTON BLENDING & PACK.	TN

V	CROSS BROTHERS PAIL RECY	IL
	TRI-STATE PLATING	IN
	HEDBLUM INDUSTRIES	MI
	OTT/STORY/CORDOVA CHEM	MI
	RASSMUSSEN'S DUMP	MI
	US AVIEX	MI
	LONG PRAIRIE GROUNDWATER	MN
	SOUTH ANDOVER SITES	MN
	WASTE DSPL ENGINEERING INC	MN
	ARCANUM IRON & METAL CO	OH
	BIG D CAMPGROUND	OH
	BOWER'S LDFL	OH
	OAK GROVE SANITARY LDFL	MN
	UNITED SCRAP LEAD CO INC	OH
	ARROWHEAD REFINERY	MN
	CARTER INDUSTRIES	MI
	NATIONAL PRESTO IND.	WI
	NOVACO INDUSTRIAL	MI
	SPRINGFIELD TOWNSHIP DUMP	MI
	KOCH REF CO	MN
	BOWER'S LANDFILL	OH
VI	GURLEY PIT	AR
	GURLEY PIT	AR
	CIMARRON MINING CORP.	NM
	NORTH CAVALCADE STREET	TX
	PESSES CHEMICAL	TX
	SOL/LYNN IND. TRANSFORMER	TX
VII	KEM-PEST LABORATORIES	MO
	ARKANSAS CITY DUMP	KS
VIII	BRODERICK WOOD PRODUCTS	CO
	SMUGGLER MOUNTAIN	CO
	SAND CREEK	CO
IX	SAN GABERIEL VALLEY AREA	CA
	SELMA TREATING CO	CA
	SOUTH BAY ASBESTOS AREA	CA
	LORENTZ	CA
X	FRONTIER HARD CROME INC	WA
	SILVER MOUNTAIN MINE	WA
	WYCKOFF CO/EAGLE HARBOR	WA
	NW TRANSFORMER	WA
TOTAL	83 PROJECTS	

FY 1991 POTENTIAL FIRST RP RA STARTS

REGION	STATE	SITE NAME
I	MA	W.R. GRACE & CO., INC
	MA	INDUSTRI-PLEX
III	PA	AMBLER ASBESTOS PILES
	PA	RAYMARK
IV	SC	WAMCHEM INC
	NC	CHEMTRONICS INC
	MS	FLOWOOD SITE
	KY	AIRCO CARBIDE INC/DIV AIRCO
	KY	B.F. GOODRICH (CALVERT CITY)
	FL	PIONEER SAND CO
	FL	HARRIS CORP./PAM BAY FAC
	AL	PERDIDO GROUNDWATER CONTAM
	TN	NORTH HOLLYWOOD DUMP
	MS	NEWSOM BROTHERS OLD RIECHOLD
	FL	KASSOUF-KIMERLING BATTERY DISPL
V	MI	AMERICAN ANODOC INC
	MN	AGATE LAFE SCRAP YARD
	MI	AUTO ION CHEMICALS INC
	OH	ALSCO ANACONDA
	OH	MIAMI COUNTY INCINERATOR
	OH	FIELDS BROOK
	WI	JANESVILLE ASH BEDS
	WI	JANESVILLE OLD LDFL
VI	NM	SOUTH VALLEY
VII	MO	FINDETT CORP
VIII	UT	PORTLAND CEMENT (KILN DUST 2&3)
IX	CA	FAIRCHILD CAMERA (SAN JOSE)
	TOTAL	27 PROJECTS

FY91 POTENTIAL FIRST RP RA STARTS

FST/SUB STRT	RG	SITE NAME	OP UNIT	EVENT	PLAN STRT
FST	01	ROSE DISPOSAL PIT	01	RA1	911
		SULLIVAN'S LEDGE	01	RA1	914
		GROVELAND WELLS	02	RA1	914
		SOUTH MUNICIPAL WATER SUPPLY WELL	01	RA1	914
		OLD SPRINGFIELD LANDFILL	01	RA1	914
	02	DIAMOND ALKALI CO.	01	RA1	914
		EWAN PROPERTY	01	RA1	913
		YORK OIL CO.	01	RA1	914
		GENERAL MOTORS/CENTRAL FOUNDRY DIV.	01	RA1	914
		HOOKER CHEM S-AREA	01	RA1	913
	03	ARMY CREEK LANDFILL	01	RA1	911
		LIMESTONE ROAD SITE	01	RA1	913
		SALTVILLE WASTE DISP PONDS	01	RA1	914
		US TITANIUM	01	RA1	914
	04	CAROLAWN	01	RA1	914
		POWERSVILLE LANDFILL	01	RA1	912
	05	NL INDUSTRIES/TARACORP LEAD SMELT SITE	01	RA1	914
		WAYNE WASTE OIL	01	RA1	914
		NORTHSIDE SANITARY LDFL	01	RA1	914
		ENVIRO-CHEM CORP	01	RA1	914
		NINTH AVENUE DUMP	01	RA1	913
		LIQUID DISPOSAL INC	01	RA1	913
		CLIFF/DOW DUMP	01	RA1	912
		IONIA CITY LDFL	01	RA1	914
		KOCH REF CO	01	RA1	913
		WASTE DSPL ENGINEERING INC	01	RA2	911
		PRISTINE INC	01	RA1	912
		COSHOCTON LDFL	01	RA1	912
		SCHILLING E H LDFL	01	RA1	911
		MID-STATE DSPL INC LDFL	01	RA1	911
	06	DIXIE OIL PROCESSORS, INC.	01	RA1	914
		KOPPERS CO., INC. (TEXARKANA PLT)	01	RA1	912
	07	CHEMPLEX CO	01	RA1	913
		VOGEL PAINT & WAX CO	01	RA1	913
		NORTHWESTERN STATES PORTLAND CEMENT CO	01	RA1	914
		MASON CITY COAL GASIFICATION	01	RA1	911
		DOEPKE DISPOSAL HOLLIDAY	01	RA1	912
		SUPERIOR SOLVENTS & CHEMICALS INC	01	RA1	914
		SOLID STATE CIRCUITS	01	RA1	912
		HASTINGS GROUNDWATER CONTAMINATION	09	RA1	913
	08	WOODBURY CHEMICAL CO.	01	RA1	912
		BURLINGTON NORTHERN (SOMERS PLANT)	01	RA1	914
		WHITEWOOD CREEK	01	RA1	914
	09	INDIAN BEND WASH AREA	02	RA1	914
		TUCSON INTL AIRPORT AREA	01	RA2	914
		MSM BRAKES	01	RA1	913
		RAYTHEON CORP	01	RA1	914
		LORENTZ BARREL & DRUM CO	02	RA1	912
		INTERSIL	01	RA1	913
FST	09	APPLIED MATERIALS	01	RA1	914
		SOLVENT SERVICE INC	01	RA1	914
		INTEL CORP (MOUNTAIN VIEW PLT)	01	RA1	914
		FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	02	RA1	914
	10	TELEDYNE WAH CHANG ALBANY (TWCA)	02	RA1	914
		GOULD INC	01	RA1	913
		NORTHSIDE LANDFILL	01	RA1	914
		NORTHWEST TRANSFORMER - SALVAGE YARD	01	RA1	914

TOTAL	57
PLUS PREV. PAGE	27
GRAND TOTAL	84

SENATOR LAUTENBERG: Assuming the President's 1991 budget request for Superfund is the amount appropriated by Congress and enacted, how many total remedial action projects (including those that can be counted toward meeting the two-year deadline and those that cannot be counted toward the deadline) do your project will be ready for funding by October 17, 1991, but will not receive funding due to lack of available funds? Please provide site names and locations, as well as an estimate of total funds necessary to initiate such projects.

ANSWER: EPA anticipates no change between its end-of-year 1991 projection and the October 17, 1991 time-frame. The universe of site names and locations are attached.

FY 1990 FUNDED PROJECTS (WITHIN BUDGET)

SITE NAME	STATE
FOREST GLEN SUBDIV	NY
WHITMOYER LABS	PA
OLD MIDLAND	AR
AMERICAN CREOSOTE	TN
ABERBEEN PESTICIDES	NC
MW MANUFACTURING	PA
HAVERTOWN PCP	PA
RADIUM CHEMICAL	NY
ROEBLING STEEL	NJ
PURITY OIL SALES	CA
CAPE FEAR	NC
SMUGGLER MOUNTAIN	CO

SUB TOTAL NUMBER OF PROJECTS 12

FY 1990 RP RA STARTS

SITE NAME	STATE
CANNON ENGINEERING	MA
YAWORSKI WASTE LAGOON	CT
GROVELAND WELLS	MA
IRON HORSE PARK	MA
TINKHAM GARAGE	NH
OLD BETHAGE	NY
GE WIRING DEVICES	PR
HUDSON RIVER	NY
KATONAH MUNICIPAL LDFL	NY
CLOTHIER DISPOSAL	NY
SINCLAIR REFINERY	NY
ASBESTOS DUMP	NJ
VEGA ALTA PUBLIC SUPPLY	PR
WILDCAT LANDFILL	DE
NATIONAL STARCH & CHEM	NC
CHEMTRONICS INC	NC
HARRIS CORP/PALM BAY	FL
PERDIDO GROUNDWATER CONTAM	AL
PIONEER SAND CO.	FL
WAMCHEM INC.	SC
OUTBOARD MARINE CORP	IL
BELVIDERE MUNICIPAL	IL
FORT WAYNE REDUCTION	IN

WAUSAU GROUNDWATER	WI
NINTH AVE	IN
VELSICOL CHEMICAL	IL
LASKIN POPLAR OIL	OH
COSHOCTON	OH
MASON COUNTY	MI
SANDS SPRINGS PETROCHEM	OK
DIXIE OIL PROCESSORS	TX
HASTINGS GROUNDWATER	NE
MYSTERY BRIDGE	WY
ATLAS ASBESTOS	CA
COALINGA ASBESTOS	CA
PACIFIC HIDE & FUR	ID

SUB TOTAL NUMBER OF PROJECTS 36

POTENTIAL SUBSQ FUND RA EVENTS FY91

REGION	SITE NAME	STATE
I	BAIRD & MCGUIRE	MA
	CHARLES-GEORGE RECLAMATION	MA
	CHARLES-GEORGE RECLAMATION	MA
	W.R. GRACE & CO. INC	MA
	INDUSTRI-PLEX	MA
II	CALDWELL TRUCKING CO.	NJ
	LIPARI LANDFILL	NJ
	LOVE CANAL	NY
	MARATHON BATTERY	NY
	MARATHON BATTERY	NY
	METALEC/AEROSYSTEM	NJ
	LOVE CANAL 93RD ST SC	NY
	NASCOLITE CORP	NJ
	HAVILAND COMPLEX	NJ
	BURNT FLY BOG	NJ
	PRICE LANDFILL	NJ
III	BERKS SAND PIT	PA
	BLOSENKI LANDFILL	PA
	BLOSENKI LANDFILL	PA
	DRAKE CEMICAL	PA
	HELEVA	PA
	MILL CREEK, ERIE, PA	PA
	DELAWARE SAND & GRAVEL	DE
	AMBLER ASBESTOS PILES	PA
	RAYMARK	PA
IV	ZELLWOOD OU#2	FL
	NORTH HOLLYWOOD DUMP	TN
	NEWSOM BROTHERS OLD RIEC	MS
	KASSOUF-KIMERLING BATTERY	FL

V	ARROWHEAD REF CO	MN
	NATIONAL PRESTO	WI
	EAU CLAIRE	WI
	AGATE LAKE SCRAP YD	MN
	AMERICAN ANODOC INC	MI
	AUTO ION CHEMICAL INC	MI
	ALSOCO ANACONDA	OH
	MIAMI COUNTY INCINER.	OH
	FIELDS BROOK	OH
	JANESVILLE ASH BEDS	WI
	JANESVILLE OLD LDFL	WI
VI	BAYOU BONFOUCA	LA
	SOL LYNN/INDUSTRIAL TRANS	TX
	SOUTH VALLEY SJ-6	NM
	SOUTH VALLEY	NM
VII	ELLISVILLE AREA SITE	MO
	HASTINGS GROUNDWATER CONT	NE
	TIMES BEECH OU2	MO
	CHEROKEE COUNTY	KS
	FINDETT CORP	MO
VIII	DENVER RADIUM SITE	CO
	DENVER RADIUM SITE	CO
	SMUGGLER MOUNTAIN	CO
	SILVER BOW CREEK	MT
	PORTLAND CEMENT (KILN DUST)	UT
IX	IRON MOUNTAIN MINE	CA
	SAN GABRIEL VALLEY (AREA)	CA
	SAN GABRIEL VALLEY (AREA)	CA
	PURITY OIL SALES	CA
	FAIRCHILD CAMERA (SAN J)	CA
X	COMMENCEMENT BAY	WA
TOTAL	60 PROJECTS	

FY 1991 POTENTIAL RP STARTS

01	BEACON HEIGHTS LANDFILL	02	RA1	914
	KELLOGG-DEERING WELL FIELD	02	RA1	914
	RE-SOLVE, INC.	02	RA1	913
	WINTHROP LANDFILL	02	RA1	913
	OTTATI & GOSS/KINGSTON STEEL DRUM	02	RA1	911
	OTTATI & GOSS/KINGSTON STEEL DRUM	03	RA1	914
02	CIBA-GEIGY CORP	01	RA1	914
	LOVE CANAL	05	RA2	911
	SINCLAIR REFINERY	01	RA3	911
	HOOKER CHEM S-AREA	01	RA2	913
	HOOKER CHEM S-AREA	01	RA3	914
	GE WIRING DEVICES	01	RA2	914
03	HARVEY & KNOTT DRUM SITE	01	RA2	914
	KIMBERTON SITE	02	RA1	914
	MCADOO ASSCCIATES	01	RA3	911
04	NATIONAL STARCH & CHEM CORP	02	RA1	914
	CELANESE CORP SHELBY FIBER OPERATIONS	02	RA1	912
	NEWSOM BROTHERS OLD REICHOLD SITE	01	RA2	913
	STAUFFER CHEMICAL CO COLD CREEK PLT	01	RA2	912
	STAUFFER CHEMICAL CO AXIS PLT	01	RA2	912
	CIBA-GEIGY CORP	02	RA1	914
05	VELSICOL CHEM CORP	01	RA2	911
	WAUCONDA SAND & GRAVEL CO	02	RA1	912
	REILLY TAR & CHEM ST LOUIS PARK	03	RA1	912
	REILLY TAR & CHEM ST LOUIS PARK	04	RA1	912
06	MOTCO, INC.	02	RA1	914
	SOL LYNN/INDUSTRIAL TRANSFORMERS	01	RA1	914
07	HASTINGS GROUNDWATER CONTAMINATION	04	RA1	913
08	WOODBURY CHEMICAL CO.	02	RA1	912
	SMUGGLER MOUNTAIN	01	RA3	911
09	TUCSON INTL AIRPORT AREA	01	RA1	914
	TUCSON INTL AIRPORT AREA	01	RA3	914
	FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	01	RA1	914
	COALINGA ASBESTOS MINE	01	RA1	913
	OPERATING INDUSTRIES INC LNDFLL	02	RA1	913
10	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	01	RA1	911
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	01	RA2	914
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	03	RA1	911
	COMMENCEMENT BAY - NEARSHORE/TIDEFLATS	05	RA3	912
	TOTAL		39	

FUND POTENTIAL OBLIGATIONS FOR FIRST RA EVENTS FY91

REGION	SITE NAME	STATE
I	NEW BEDFORD SITE	MA
	NORWOOD PCBS	MA
	NYANZA CHEMICAL	MA
	SULLIVAN'S LEDGE	MA
	PINETTE'S SALVAGE YARD	ME
II	NACOLITE CORP	NJ
	ROCKY HILL MUNICIPAL WELL	NJ
	WILLIAMS PROPERTY	NJ
	AMERICAN THERMOSTAT CO.	NY
	PASLEY SOLVENTS & CHEM.	NY
	SEALAND RESTORTATION	NY
	SMS INSTRUMENTS INC	NY
	COMKE FILL SOUTH	NJ
	WALDICK AEROSPACE	NJ
	SHARKEY LANDFILL	NJ
	CHEMICAL INSECTICIDE	NJ
	PREFERRED PLATING CORP.	NY
	BURNT FLY BOG	NJ
III	CRYO-CHEM INC	PA
	DORNEY ROAD SITE	PA
	EAST MT ZION	PA
	C & R BATTERY CO INC	VA
	GREENWOOD CHEMICAL CO	VA
	HEBELKA AUTO SALVAGE	PA
	DORNEY ROAD LANDFILL	PA
	BERKS SAND PIT	PA
	WELSH LANDFILL	PA
IV	COLEMAN-EVANS WOOD PRESER	FL
	WHITEHOUSE WASTE OIL PITS	FL
	ZELLWOOD GROUNDWATER CONT	FL
	ZELLWOOD GROUNDWATER CONT	FL
	SMITH'S FARM BROOKS	KY
	CAROLINA TRANSFORMER	NC
	CAPE FEAR	NC
	AMNICOLA DUMP	NC
	GIEGER (C & M OIL)	SC
	62ND STREET	FL
	SMITH'S FARM	KY
	HIPPS RD LANDFILL	FL
	INTERSTATE LEAD	AL
	BYPASS 601 GROUNDWATER	NC
	SMITH'S BROOK FARM	KY
	ARLINGTON BLENDING & PACK.	TN

V	CROSS BROTHERS PAIL RECY	IL
	TRI-STATE PLATING	IN
	HEDBLUM INDUSTRIES	MI
	OTT/STORY/CORDOVA CHEM	MI
	RASSMUSSEN'S DUMP	MI
	US AVIEX	MI
	LONG PRAIRIE GROUNDWATER	MN
	SOUTH ANDOVER SITES	MN
	WASTE DSPL ENGINEERING INC	MN
	ARCANUM IRON & METAL CO	OH
	BIG D CAMPGROUND	OH
	BOWER'S LDFL	OH
	OAK GROVE SANITARY LDFL	MN
	UNITED SCRAP LEAD CO INC	OH
	ARROWHEAD REFINERY	MN
	CARTER INDUSTRIES	MI
	NATIONAL PRESTO IND.	WI
	NOVACO INDUSTRIAL	MI
	SPRINGFIELD TOWNSHIP DUMP	MI
	KOCH REF CO	MN
	BOWER'S LANDFILL	OH
VI	GURLEY PIT	AR
	GURLEY PIT	AR
	CIMARRON MINING CORP.	NM
	NORTH CAVALCADE STREET	TX
	PESSES CHEMICAL	TX
	SOL/LYNN IND. TRANSFORMER	TX
VII	KEM-PEST LABORATORIES	MO
	ARKANSAS CITY DUMP	KS
VIII	BRODERICK WOOD PRODUCTS	CO
	SMUGGLER MOUNTAIN	CO
	SAND CREEK	CO
IX	SAN GABERIEL VALLEY AREA	CA
	SELMA TREATING CO	CA
	SOUTH BAY ASBESTOS AREA	CA
	LORENTZ	CA
X	FRONTIER HARD CROME INC	WA
	SILVER MOUNTAIN MINE	WA
	WYCKOFF CO/EAGLE HARBOR	WA
	NW TRANSFORMER	WA
TOTAL	83 PROJECTS	

FY 1991 POTENTIAL FIRST RP RA STARTS

REGION	STATE	SITE NAME
I	MA	W.R. GRACE & CO., INC
	MA	INDUSTRI-PLEX
III	PA	AMBLER ASBESTOS PILES
	PA	RAYMARK
IV	SC	WAMCHEM INC
	NC	CHEMTRONICS INC
	MS	FLOWOOD SITE
	KY	AIRCO CARBIDE INC/DIV AIRCO
	KY	B.F. GOODRICH (CALVERT CITY)
	FL	PIONEER SAND CO
	FL	HARRIS CORP./PAM BAY FAC
	AL	PERDIDO GROUNDWATER CONTAM
	TN	NORTH HOLLYWOOD DUMP
	MS	NEWSOM BROTHERS OLD RIECHOLD
	FL	KASSOUF-KIMERLING BATTERY DISPL
V	MI	AMERICAN ANODOC INC
	MN	AGATE LAFE SCRAP YARD
	MI	AUTO ION CHEMICALS INC
	OH	ALSCO ANACONDA
	OH	MIAMI COUNTY INCINERATOR
	OH	FIELDS BROOK
	WI	JANESVILLE ASH BEDS
	WI	JANESVILLE OLD LDFL
VI	NM	SOUTH VALLEY
VII	MO	FINDETT CORP
VIII	UT	PORTLAND CEMENT (KILN DUST 2&3)
IX	CA	FAIRCHILD CAMERA (SAN JOSE)
	TOTAL	27 PROJECTS

FY91 POTENTIAL FIRST RP RA STARTS

FST/SUB STRT	RG	SITE NAME	OP UNIT	EVENT	PLAN STRT
FST	01	ROSE DISPOSAL PIT	01	RA1	911
		SULLIVAN'S LEDGE	01	RA1	914
		GROVELAND WELLS	02	RA1	914
		SOUTH MUNICIPAL WATER SUPPLY WELL	01	RA1	914
		OLD SPRINGFIELD LANDFILL	01	RA1	914
	02	DIAMOND ALKALI CO.	01	RA1	914
		EWAN PROPERTY	01	RA1	913
		YORK OIL CO.	01	RA1	914
		GENERAL MOTORS/CENTRAL FOUNDRY DIV.	01	RA1	914
		HOOKER CHEM S-AREA	01	RA1	913
	03	ARMY CREEK LANDFILL	01	RA1	911
		LIMESTONE ROAD SITE	01	RA1	913
		SALTVILLE WASTE DISP PONDS	01	RA1	914
		US TITANIUM	01	RA1	914
	04	CAROLAWN	01	RA1	914
		POWERSVILLE LANDFILL	01	RA1	912
	05	NL INDUSTRIES/TARACORP LEAD SMELT SITE	01	RA1	914
		WAYNE WASTE OIL	01	RA1	914
		NORTHSIDE SANITARY LDFL	01	RA1	914
		ENVIRO-CHEM CORP	01	RA1	914
		NINTH AVENUE DUMP	01	RA1	913
		LIQUID DISPOSAL INC	01	RA1	913
		CLIFF/DOW DUMP	01	RA1	912
		IONIA CITY LDFL	01	RA1	914
		KOCH REF CO	01	RA1	913
		WASTE DSPL ENGINEERING INC	01	RA2	911
		PRISTINE INC	01	RA1	912
		COSHOCTON LDFL	01	RA1	912
		SCHILLING E H LDFL	01	RA1	911
		MID-STATE DSPL INC LDFL	01	RA1	911
	06	DIXIE OIL PROCESSORS, INC.	01	RA1	914
		KOPPERS CO., INC. (TEXARKANA PLT)	01	RA1	912
	07	CHEMPLEX CO	01	RA1	913
		VOGEL PAINT & WAX CO	01	RA1	913
		NORTHWESTERN STATES PORTLAND CEMENT CO	01	RA1	914
		MASON CITY COAL GASIFICATION	01	RA1	911
		DOEPKE DISPOSAL HOLLIDAY	01	RA1	912
		SUPERIOR SOLVENTS & CHEMICALS INC	01	RA1	914
		SOLID STATE CIRCUITS	01	RA1	912
		HASTINGS GROUNDWATER CONTAMINATION	09	RA1	913
	08	WOODBURY CHEMICAL CO.	01	RA1	912
		BURLINGTON NORTHERN (SOMERS PLANT)	01	RA1	914
		WHITEWOOD CREEK	01	RA1	914
	09	INDIAN BEND WASH AREA	02	RA1	914
		TUCSON INTL AIRPORT AREA	01	RA2	914
		MGM BRAKES	01	RA1	913
		RAYTHEON CORP	01	RA1	914
		LORENTZ BARREL & DRUM CO	02	RA1	912
		INTERSIL	01	RA1	913
FST	09	APPLIED MATERIALS	01	RA1	914
		SOLVENT SERVICE INC	01	RA1	914
		INTEL CORP (MOUNTAIN VIEW PLT)	01	RA1	914
		FAIRCHILD SEMICONDUCTOR/MOUNTAIN VIEW	02	RA1	914
	10	TELEDYNE WAH CHANG ALBANY (TWCA)	02	RA1	914
		GOULD INC	01	RA1	913
		NORTHSIDE LANDFILL	01	RA1	914
		NORTHWEST TRANSFORMER - SALVAGE YARD	01	RA1	914

TOTAL 57
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GRAND TOTAL 84

SENATOR LAUTENBERG: Did EPA request more from the Office of Management and Budget (OMB) for FY 91 Superfund funding than was ultimately requested in the President's budget? If so please describe the differences by function between EPA's request to OMB and the President's budget.

ANSWER: The FY 1991 OMB Request for Superfund, $1.827 billion, was greater than the $1.740 billion requested in the FY 1991 President's Budget. The FY 1991 EPA request and President's Budget for Superfund are based on available revenues and the decrease in funding reflects the latest tax estimates. The differences by function in both submissions are as follows:

(Dollars in Millions)

Function	1991 OMB Request	1991 Pres. Budget
ENFORCEMENT	$193.3	$179.7
R&D	$71.9	$71.1
MGMT&SUPT	$121.6	$115.2
RESPONSE	$1,440.2	$1,374.1
TOTAL	$1,827.0	$1,740.1

(Both requests include an additional $13.0 million for the Office of the Inspector General (OIG), requested in the OIG account.)

SENATOR LAUTENBERG: If EPA requested more from OMB than was ultimately requested in the President's budget for Superfund, would that additional amount have resulted in the likely compliance with the two-year mandated deadline?

ANSWER: No, since the Agency's 1991 OMB Request for Superfund was approximately the same level as requested in the 1991 President's Budget.

REMEDIAL ACTION FUNDING

SENATOR LAUTENBERG: How much more funding would EPA have to request in the FY 91 budget to result in compliance with the two-year mandated deadline?

ANSWER: The Agency estimates that it would need approximately $650 million and 50 workyears in additional resources to comply with the statutory two-year deadline of beginning remedial action at 200 new first starts by October 1991.

SUPERFUND

SENATOR LAUTENBERG: Could EPA achieve compliance with the two-year mandated deadline by shifting funds for FY 90 and/or funds projected in the budget for FY 91 from other Superfund functions to the response function? If so, what would be the impact of shifting funds on the functions losing resources, and what impact would such shifts have on the Superfund program as a whole? Would such inter-function shifts be advisable from the perspective of operating an effective program? Would such shifts result in noncompliance with any other statutory requirements, goals, or nondiscretionary duties of the Superfund law?

ANSWER: EPA does not have the resources in the other functions to meet this deadline. EPA estimates that $650 million is needed to meet the deadline, and resources in the other functions only total $410 million. Pulling resources from the other functions, from the preremedial program, and other agencies to meet the deadline would completely undermine the Superfund program. A shift of this magnitude in resources would not support an "enforcement-first" budget and would disrupt the movement of sites in the remedial pipeline. Further, it would cripple Superfund's administrative support and eliminate the viability of its research and development programs, thus eradicating our credibility with Congress and environmental groups.

SENATOR LAUTENBERG: Did the FY90 Superfund appropriation legally prohibit the Administration from requesting resources in FY 91 to assure compliance with the two-year remedial action deadline?

ANSWER: No. The FY90 Superfund Appropriation does not legally prohibit the Administration from requesting resources in FY91 to meet the two-year remedial action deadline.

SUPERFUND

SENATOR LAUTENBERG: Since SARA's enactment, has the Administration ever requested in its budgets for Superfund any of the $1.25 billion authorized from general revenues for Superfund?

ANSWER: The President's Budget for Superfund has not solicited general revenues. The President's Budget has been based on taxes, interest, and cost recovery to support the request.

SENATOR LAUTENBERG: Since SARA's enactment, when and at what levels did Congress appropriate general revenues for Superfund that were not requested by the President?

ANSWER: Congress appropriated general revenues for Superfund in FY 1988 at $239 million and in FY 1989 at $150 million.

SENATOR LAUTENBERG: Would the request of general revenues, if appropriated, increase the amount of total funds available for Superfund? If so, please explain how.

ANSWER: Yes, because general revenues do not offset other receipts. However, the general revenues request would have to stay within the statutory limits.

SENATOR LAUTENBERG: Please indicate for each fiscal year since the enactment of the original Superfund law, the amount requested in the budget for Superfund, and the amount of the Congressional appropriation.

ANSWER:

President's Budget VS Congressional Appropriation for Superfund
1981 to 1990
(Dollars in Millions)

Year	Pres. Budget	Congress. Approp.
1981	$0	$74
1982	$200	$190
1983	$230	$210
1984	$310	$460
1985	$640	$620
1986	$900	$0
1987	$1,050	$1,411
1988	$1,200	$1,128
1989	$1,600	$1,410
1990	$1,750	$1,560

SUPERFUND STATUTORY DEADLINES

SENATOR LAUTENBERG: Please indicate in detail, all other statutory deadlines or goals in Superfund that EPA has not met, or expects not to meet. For each past deadline and goal not met, and each future deadline and goal not expected to be met, please indicate the specific date of the deadline or goal, the reason for noncompliance, whether lack of sufficient funds was a reason for noncompliance, and the expected date of compliance. If lack of sufficient funds was or is a factor for noncompliance with any past or future statutory deadlines or goals, indicate by Superfund function the amount of increased funds necessary in 1991 to achieve compliance by October 17, 1991, or by the date of the applicable deadline or goal. (If the response to this varies from a previous analysis of this question completed in November 1988 by GAO -- Superfund Missed Statutory Deadlines Slow Progress in Environmental Programs -- please indicate the rationale for such differences.)

ANSWER: The following is a list of statutory deadlines or goals that the Environmental Protection Agency (EPA) has not met or does not expect to meet. Requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), are followed by requirements of SARA that do not amend CERCLA. Within each category, requirements of Federal agencies or departments other than EPA, requirements that have no statutory deadlines, and requirements with future deadlines are separated from the requirements with missed deadlines.

The following are requirements of CERCLA as Amended by SARA:

Section 102(a) requires EPA to promulgate by January 31, 1986, final regulations establishing reportable quantities (RQs) for all hazardous substances for which proposed RQs were published prior to March 1, 1986. EPA promulgated final RQs for all but two hazardous substances for which proposed RQs were published prior to March 1,1986 (51FR34534, 53FR33426, 54FR33418). For those two substances not yet proposed, EPA is re-evaluating the carcinogenic potential of one of the substances, lead, after the Science Advisory Board raised concerns regarding EPA's determination that lead is a potential carcinogen. New evidence shows that enough data exists to assign an RQ for lead based on chronic toxicity, rather than potential carcinogenicity. This means that the RQ for lead must be proposed again on the basis of a new criteria. The RQ for the second substance, methyl isocyanate, will be proposed for adjustment in a future rule-making when EPA's evaluation of the dose-response data for this substance is completed. EPA will obtain the human health data from the Bhopal, India release and use it in the RQ adjustment. RQs for these substances are expected to be proposed in Spring 1991.

Section 102(a) also requires EPA to promulgate final regulations by April 30, 1988 that establish RQs for all hazardous substances for which proposed RQs were not published prior to March 1, 1986. EPA promulgated final RQs for all but 13 hazardous substances for which RQs were not proposed prior to March 1, 1986. Because of EPA's re-evaluation of the carcinogenicity of lead, two additional lead compounds and 11 lead-containing waste streams are also being evaluated. If the RQ for lead metal is proposed again based on a different criteria, chronic toxicity, the RQs for the lead-containing waste streams will be proposed again as well. Until this criteria is established an expected date for another proposal is not known.

Section 105(c)(1) requires EPA to promulgate amendments to the Hazard Ranking System (HRS) by April 17, 1988. EPA published proposed revisions to the HRS (53FR51962) and received numerous public comments that had to be incorporated into the draft. The complicated nature of this rule has made EPA revise its internal schedule and the rule is proceeding on time according to this revised schedule. The new estimated date of completion is the summer of 1990.

Section 105(c)(1) requires EPA to establish effective an date for the amended HRS by October 17, 1989. The HRS is scheduled to take effect 30 days after its publication in the Federal Register, the estimated date of completion is the summer of 1990.

Section 116(a)(2) requires EPA, following completions of preliminary assessments (PAs), to complete any necessary site inspections (SIs) by January 1, 1989 at facilities contained in CERCLIS as of the date of enactment of SARA. Two regions met the statutory schedule, and EPA is currently preparing a report to Congress required by CERCLA section 116(c) that details why the goal was missed in eight Regions.

Section 120(d)(2) requires EPA to complete by April 17, 1989 the evaluation and NPL listing of Federal facilities that have had PAs and that meet criteria established in accordance with section 105 under the National Oil and Hazardous Substances Pollution Contingency Plan for determining priorities among releases. EPA evaluates Federal facilities where appropriate. As of October 26, 1989, 117 Federal facilities have been added or proposed to be added to the NPL (54FR43778). A substantial number of additional sites have been evaluated and determined not to be appropriate for the NPL.

Section 120(h)(2) requires EPA to issue regulations by April 17, 1988, in consultation with the General Services Administration, on the form of the notice required whenever any Federal department, agency, or instrumentality enters into a contract to sell or transfer property owned by the United States on which a hazardous substance was stored, for one year or more, disposed of, or released. The proposed rule was published January 13, 1988 (53FR850), will be cleared in April 1990, and the rule is awaiting final clearance from OMB. The rule is expected to be published in June 1990.

Section 123(d) requires EPA to promulgate regulations by October 17, 1987 for reimbursement of local governments for costs incurred in responding to releases or threatened releases of hazardous substances. EPA published an interim final rule October 21, 1987 (52FR39386), and the final rule is scheduled to be published in October 1990. EPA used the interim rule as a testing ground, and, in light of the experience gained in implementing the interim rule, will revise the final rule, as well as its implementation process. Section 301(h)(1) requires EPA to submit by January 1 of each calendar year a report to Congress on its progress in implementing CERCLA. The Fiscal Year 1987 report was submitted to Congress; the Fiscal Year 1988 report has been completed and will be released shortly. The Fiscal Year 1989 report is in the final review process. The annual January 1 statutory deadline has been missed because data required by the statute for the report is not available until after the statutory deadline. In addition, multiple and lengthy reviews of the report are required before it can be released to Congress (e.g., Section 301(h)(2) requires the Inspector General to review the report for reasonableness and accuracy before its submission to Congress). Increased resources have been allotted to the preparation of the report and a streamlined process has been put in place, improving the report's timeliness.

The following are requirements with no Statutory Deadlines:

Section 107(k)(6) requires the Comptroller General to conduct a study of options for a program for the management of the liabilities associated with the hazardous waste treatment, storage, and disposal sites after their closure. The General Accounting Office has completed an internal draft report and is currently incorporating EPA's comments. The final report is expected in the Spring of 1990.

Section 112(b)(1) requires EPA to prescribe appropriate forms and procedures for response claims filed under CERCLA. EPA published proposed regulations to establish response claims procedures in the Federal Register on September 13, 1989 (54FR37892). The public comment period closed November 13, 1989 and final regulations are expected to be promulgated by May 31, 1990.

Section 117(e) requires EPA to promulgate regulations for issuing technical assistance grants to any group of individuals that may be affected by a facility listed on the National Priorities List (NPL). The interim final rule was published in the Federal Register on March 24, 1988 (53FR9736), and amendments to the interim final rule were published on December 1, 1989 (54FR49848).

Section 119(c)(7) requires EPA to develop guidelines and promulgate regulations on the indemnification of response action contractors. EPA issued interim guidance on October 6, 1987, and published the proposed guidance October 31, 1989 (54FR46012). The comment period closed February 27, 1990 and EPA is currently incorporating comments received. The final guidance is expected in August 1990; the regulations are expected one year later in August 1991.

Section 120(e)(1) requires EPA and the states to publish timetables and deadlines for completion of remedial investigations/feasibility studies (RI/FSs) on Federal facilities listed on the NPL. Schedules for completion of RI/FSs at Federal facilities are routinely developed pursuant to interagency agreements (IAGs), or are published by EPA and the state when IAG negotiations are unsuccessful. IAGs had been signed for 34 of 41 sites at the end of Fiscal Year 1989 and the remaining seven are currently being negotiated.

Section 310(d)(1) requires EPA to issue regulations describing the manner of notice of citizen suits. The proposed rule was published January 26, 1989 (54FR3918), and the estimated promulgation date of the final rule is September 1990

The following are requirements with future deadlines:

Section 116(b) requires EPA to complete by October 17, 1990 an evaluation of all sites in CERCLIS as of the date of the enactment of SARA, where warranted. In the case of a facility listed in CERCLIS after the enactment of SARA, EPA is required to evaluate the facility within four years. EPA met the PA target and is currently completing PAs within one year. EPA is now focusing it efforts to have a four year evaluation process in place by reauthorization. Having met the PA targets, a backlog of sites was created at the SI stage. EPA has prioritized these sites, and is evaluating high priority sites at the SI stage within one year, and aims to address all high priority sites at the SI level within by October 1990. Competing resource needs and program priorities required that EPA reduce its emphasis on conducting SIs. Resources were shifted from this area to fund classic emergency removals, ongoing projects in the remedial pipeline, efforts to negotiate settlements with responsible parties, and to begin construction activities. EPA aims to reduce the backlog of sites by the end of 1991.

Section 116(e)(2) required EPA to start a total of 275 RI/FSs by October 17, 1989. The Agency started 321 new RI/FS as of this date, thus meeting the SARA mandate.

Status:
Reason for Noncompliance

The following are CERCLA requirements that apply to Federal agencies and departments other than EPA.

Section 104(i)(10) requires the Agency for Toxic Substances and Disease Registry (ATSDR) to submit a report on ATSDR activities to EPA and Congress every two years. The statutory deadline for the first report was October 17, 1988. The report is being submitted in two volumes. Volume I was submitted to Congress on August 23, 1989 and contained information obtained on EPA's public health assessments; the second volume is expected April 15, 1990 and is a supplementary analysis of the data contained in the first volume. The second bi-annual report is due October 17,1990. ATSDR has stated that they will request an extension. The extension is being requested in order to use data collected throughout the fiscal year in the report. The report is expected in the Spring of 1990.

Section 120(e)(1) requires that, not later than six months after listing a Federal facility on the NPL, the Federal agency or department responsible for the facility begin an RI/FS for the newly listed Federal facility. EPA's policy states that a CERCLA RI/FS begins at a Federal facility when an IAG is executed (54FR10520) or when EPA has approved a workplan pursuant to the IAG. EPA has approved RI/FS workplans at 34 of the 41 sites, and negotiations are currently underway for the seven remaining sites. Federal work is occurring at those sites where workplans have been approved.

Section 120(e)(2) requires that, within 180 days after EPA's review of the RI/FS, a Federal agency or department responsible for an NPL-listed Federal facility enter into an interagency agreement with EPA for completion of the RA for the facility. EPA policy is to enter into an IAG with Federal facilities listed on the NPL during the RI/FS stage, prior to the RA stage. Thirty four IAGs were signed, during the RI/FS stage, and the seven outstanding IAGs are currently being negotiated and are expected to be reached within the fiscal year. As a result of EPA policy, RA IAGs are completed well in advance of the statutory mandate.

Section 120(e)(2) also requires that the Federal agency or department responsible for an NPL-listed facility begin an RA for the facility not later than 15 months after completion of the RI/FS. At the end of Fiscal Year 1989, all NPL sites were at the RI/FS stage, although certain operable units are reaching the Record of Decision stage. The Federal facilities program does not expect difficulties in meeting this mandate.

The following are requirements of SARA that do not amend CERCLA:

Section 118(k)(2) requires EPA to submit every February 1 an annual report to Congress on the Radon Mitigation Demonstration Program. The report due February 1, 1989 was transmitted to Congress; the report due February 1, 1990 is in final draft form and is expected to be submitted in August 1990. The timely submission of this report is difficult as it reports on the previous calendar year's (rather than fiscal year) activities, leaving a preparation time of one month.

SUPERFUND CARRYOVER

SENATOR LAUTENBERG: What size carryover, if any, do you project having for Superfund at the end of FY 90? What size carryover, if any, do you project having for Superfund at the end of FY 91? What size carryovers, if any, did Superfund have in each of FY 87, FY 88, and FY 89? If carryovers were experienced in previous fiscal years of SARA, but are not projected for FY 90 and FY 91, please explain why.

ANSWER: We do not anticipate any Superfund carryover in either FY 1990 or FY 1991. Carryover included in the FY 1987, FY 1988, and FY 1989 Superfund budgets was $96 million, $378 million, and $154 million, respectively. Superfund carryover is not projected for FY 1990 and FY 1991 since we plan on making full use of the resources available to us in both fiscal years.

SUPERFUND TRUST FUND

SENATOR LAUTENBERG: How much revenue is currently in the Superfund Trust Fund? How much revenue will be in the Superfund Trust Fund by the end of FY 90? How much revenue will be in the Superfund Trust Fund by the end of FY 91? Does the Superfund Trust Fund currently owe or is it projected that the Trust Fund will owe any sums to the general fund of the Treasury or for any other liabilities? If so, please indicate how much is currently owed or will be owed by the Trust Fund to any other entity, and when such sums will/are expected to be paid to any such entities. Please also indicate how much revenue, if any, will remain in the Superfund Trust Fund, after any such sums are paid to any other entities.

ANSWER: Revenue currently in the Superfund Trust Fund is $1.7 billion. At the end of FY 1990, we project that the revenue available to the Superfund Trust Fund will be $1.8 billion. By the end of FY 1991, we estimate that revenue available to the Superfund Trust Fund balance will be $29 million. The Superfund Trust Fund currently owes $734 million in advances to the General Fund of the Treasury. These dollars must be returned to Treasury by December 31, 1991. We do not anticipate that any dollars will remain in the Trust Fund by this date.

ATSDR FUNDING

SENATOR LAUTENBERG: Please indicate by function the request made by ATSDR to OMB for 1991, and the budget request by function actually approved for inclusion in the President's budget. If the OMB request exceeds the actual budget request, please indicate with as much specificity as is possible, what activities could have been accomplished by the request to OMB that are not likely to be accomplished due to the reduction. Indicate whether the budget request will result in compliance with all statutory requirements, goals, and deadlines applicable to ATSDR. If not indicate whether compliance would require additional resources as well as how much additional resources would be necessary. Please consult with ATSDR in preparing this response. Please also provide the current estimate for 1990 for all ATSDR functions discussed for 1991.

ANSWER: The 1991 ATSDR OMB request was $48.4 million and the President's budget was $44.5 million. By function, the two requests were:

	1990	1991	1991
ACTIVITIES	CURR EST	REQUEST TO OMB	REQUEST PRES.
Health Assessments	$14,642	$17,535	$13,654
Toxicological Prof.	9,644	10,883	10,807
Emergency Response	2,206	2,949	2,179
Registries	2,422	2,616	2,817
Surveillance & Health Studies	10,859	9,218	9,746
Health Education	5,406	5,187	5,297
TOTAL	$45,179	$48,388	$44,500

Section 104 (i)(6)(A) of CERCLA mandates that ATSDR conduct a health assessment for each new site within a year after it is added to the NPL. The OMB request would have allowed ATSDR to conduct health assessments at all of the 125 sites anticipated to be added by EPA to the NPL. Resources provided in the President's budget will support 60 health assessments.

Section 104(i)(6)(B) of CERCLA requires the Agency to respond to petitions for health assessments by either conducting a health assessment or by providing a written explanation as to why a health assessment is not appropriate. We estimate that 40 petitions will be received during 1991. The OMB request would have allowed ATSDR to respond to 30 of these petitions. ATSDR estimates that 220 sites will require a full health assessment during 1991. At the OMB request, ATSDR planned production and oversight at 160 of the 220 health assessments expected in 1991. At the President's budget, ATSDR will produce and oversee production of 80 health assessments.

Section 104(i)(7)(A) of CERCLA mandates ATSDR to conduct pilot studies at those sites where the health assessment indicates that a pilot would be appropriate. The estimated need for pilot health studies is 30 in 1991. The number of pilot health effect studies will be reduced from the 12 estimated in the OMB request to no more than 10.

Section 104 (i)(3) of CERCLA mandates that toxicological profiles be produced for each of the 200 most hazardous substances found at Superfund sites at a rate of no more than 40 per year. At the OMB request level, ATSDR planned to produce the fourth set of 40 Toxicological Profiles in final form and initiate drafts for 30 of 83 hazardous substances. The President's budget will allow ATSDR to produce the fourth set of 40 Toxicological Profiles in final form and initiate drafts of 20 hazardous substances.

Section 104 (i)(1)(D) of CERCLA authorizes ATSDR to provide assistance and other consultation in cases of public health emergencies or other instances of actual or probable human exposure to toxic substances. At the OMB request, ATSDR estimated response to 2,500 requests. At the President's budget, ATSDR estimates responding to 1,000 requests.

By September 1990, the Trichloroethylene (TCE) sub-registry of the National Exposure Registry will be established. The TCE sub-registry will be made up of 10 site-specific sub-registries. These 10 will have to be maintained and updated. ATSDR has determined that six additional sub-registries need to be established; each of these will involve approximately 10 site-specific sub-registries. ATSDR will continue the 10 existing site-specific sub-registries. ATSDR is authorized to establish and maintain a national registry of persons exposed to toxic substances under sections 104(i)(1)(A) and 104(i)(8) of CERCLA. The initiation of the National Disease Registry will be delayed. ATSDR is authorized to establish and maintain a national disease registry in section 104(i)(1)(A) of CERCLA.

ATSDR currently sponsors three state-wide non-site specific surveillance programs. These projects will not be continued in 1991. General surveillance activities are authorized under section 104(i)(1)(D).

Four site specific surveillance projects will be in operation as of September 1990. This includes the two Lipari Landfill projects. In 1991, ATSDR will use available funds to continue the two Lipari Landfill projects. Site specific surveillance is mandated under section 104(i)(9) of exposure to hazardous substances, where there is a significant risk of adverse health effects because of this exposure, and where the exposure is the result of a release from a facility.

ATSDR will fund eight cooperative agreements in 1991 for the purpose of developing state based environmental health education programs for health professionals. Eleven were funded in 1990. These agreements are funded as part of ATSDR's health education program mandated by section 104(i)(14) of CERCLA.

SARA SECTION 126/NIEHS

SENATOR LAUTENBERG: Please indicate the requests made to OMB for SARA section 126 worker training grants, as well as for NIEHS Superfund program for 1991. If the request to OMB exceeds the 1991 budget request for any of these programs, please indicate what activities could have been accomplished by the request to OMB that are not likely to be accomplished due to the reduction. Please coordinate with NIEHS in preparing this response. Please also provide the current estimate for 1990 for the programs noted in this question.

ANSWER: NIEHS activities include worker safety training authorized in Section 126 of SARA and the university-based, basic research and professional training grant program authorized in section 311 of the Act. The 1991 President's Budget requests a total of $21.9 million for these NIEHS-managed Superfund activities. EPA requested $23.0 million to support the activities of NIEHS in 1991. Congress appropriated $35.9 million for NIEHS activities in Fiscal Year 1990. These amounts are summarized in the following table:

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES
SUPERFUND GRANTS PROGRAM
1990 FUNDING HISTORY
($ in millions)

PROGRAM	EPA REQUEST	PRES. BUD.	APPROP.
Basic Res. &Prof. Train.	30.0	11.9	16.9
Sect. 126	10.0	10.0	20.0
TOTAL	40.0	21.9	36.9

1991 FUNDING HISTORY
($ in millions)

PROGRAM	EPA REQUEST	PRES. BUD.
Basic Res. & Prof. Train.	12.9	11.9
Sect. 126	10.0	10.0
TOTAL	22.9	21.9

SARA sets a ceiling on amounts to be appropriated for the NIEHS Superfund activities. Section 111(d)(12) authorized up to $10 million per year to support the Worker Safety Training Grants program. Congress appropriated this amount from 1987 through 1989. Using these funds, NIEHS grantees developed and conducted training programs for skilled laborers, other workers, and their immediate supervisors. This training enabled workers to recognize and avoid occupational exposures to hazardous materials.

In the appropriation process for 1990, Congress raised the ceiling in section 111 for Worker Safety Training Grants to $20 million and appropriated that amount. The rationale was that the rapid acceleration of NPL sites moving from the RI/FS phase to remediation in 1990 and 1991 would substantially increase demand for a well-trained workforce. NIEHS expanded its Worker Safety training program by increasing the number of organizations offering training from 11 to 22. The President's Budget request returns to the original $10 million authorization level. The combination of almost $50 million already appropriated to train workers and the large number of private training courses indicates that a sizable trained workforce already exists.

Section 111(n)(2) of SARA establishes appropriations ceilings for NIEHS' university-based, Superfund basic research and training grants. This authorization increases each year; from $3.0 million in 1987 to $35 million in 1991. This reflects the understanding of Congress that a basic biomedical research program must identify new methods and techniques to evaluate the risks to human health from uncontrolled hazardous waste; and develop therapeutic and other measures to prevent diseases; and protect public health from these exposures over a period of several years.

In 1990, $16.9 million was appropriated to support the basic research program. This program has grown from four universities conducting 28 studies in 1987 to 11 universities conducting 90 studies in 1990. Each of these universities is conducting research designed to produce usable findings to be available on or before the end of the current Superfund authorization period in 1991. No new research studies are scheduled to begin in 1991.

SUPERFUND MILESTONES/DEADLINES

SENATOR LAUTENBERG: Please indicate what, if any, milestones or deadlines announced in the Administrator's Superfund Management Review and subsequent Implementation Plan, have not been met or are not likely to be met in FY 90 or FY 91. Please indicate the percentage of deadlines/milestones that have been met to date. If lack of resources may be a contributing factor to failing to comply with any of these milestones/deadlines, please indicate by Superfund function, what, if any, additional funding would be necessary in FY 91 to result in compliance.

ANSWER: Although to date not every milestone in the Superfund Management Review (SMR) Implementation Plan has been met, the Agency is still projecting that it will meet all of the milestones in 1990 or 1991.

Through January 19, 1990, the date of the last Implementation Plan progress report, the Agency had met 88 percent of the milestones due.

Lack of resources has not been a contributing factor in those milestones which have been missed.

SARA Title III

SENATOR LAUTENBERG: Please indicate for each fiscal year the amount appropriated (including all Congressional add-ons in all accounts, including workyears) since the inception of SARA Title III, including in each year's description the allocation for each applicable EPA office, the allocations for each applicable appropriations account, the allocation for each SARA Title III function, and the breakdown of any such allocations between Headquarters and the Regions. Please provide totals as well as the specific allocations.

ANSWER: See the attached chart displaying resources for 1987 through 1990.

TITLE III RESOURCE SUMMARY (dollars in thousands)	FY 1987 Actuals				FY 1988 Actuals				FY 1989 Actuals				FY 1990 Appropriated Level**			
Prog.Elems & Support Activities	FTE	S&E$	AC&C$	Total$	FTE	S&E$	AC&C$	Total$	FTE	S&E$	AC&C$	Total$	FTE	S&E$	AC&C$	Total$
1) OPTS																
TPSY9G OPTS Title III																
Headquarters	2.0	381.3	4628.3	5009.6	--	--	105.0	105.0	--	--	--	--	--	--	--	--
Regions	0.7	69.5	--	69.5	--	--	--	--	--	--	--	--	--	--	--	--
TPTY3G OPTS Enf. Title III																
Regions	--	1.9	--	1.9	--	--	--	--	--	--	--	--	--	--	--	--
PSL9G OPTS Title III																
Headquarters	--	--	--	--	20.0	1406.1	5855.5	7261.6	22.8	2100.0	7350.9	9450.9	70.2	4123.9	12237.9	16361.8
Regions	--	--	--	--	9.9	492.1	--	492.1	15.0	803.6	--	803.6	13.0	640.9	--	640.9
PTL3G OPTS Enf Title III																
Headquarters	--	--	--	--	1.1	41.9	--	41.9	2.7	96.4	1472.7	1569.1	3.0	260.4	2562.9	2823.3
Regions	--	--	--	--	6.7	273.9	--	273.9	9.0	414.9	--	414.9	8.0	369.3	--	369.3
FY 1990 Unapproved FTE													16.0			
OPTS Subtotal	2.7	452.7	4628.3	5081.0	37.7	2214.0	5960.5	8174.5	49.5	3414.9	8823.6	12238.5	110.2	5394.5	14800.8	20195.3
2) OSWER																
PUY9G Emerg. plan/R-t-K																
Headquarters	1.4	129.1	3147.3	3276.4	--	40.3	210.0	250.3	--	--	--	--	--	--	--	--
Regions	2.3	160.1	--	160.1	--	--	--	--	--	--	--	--	--	--	--	--

PUD9G Emerg. plan/R-t-K																
Headquarters	--	--	--	--	8.9	595.9	2147.8	2743.7	9.0	1111.9	1868.7	2980.6	11.0	1644.8	4313.5	5958.3
Regions	--	--	--	--	13.4	623.2	--	623.2	19.9	975.4	--	975.4	21.0	983.5	--	983.5
TRNY9G FEMA Emerg. Training	--	4.0	4724.1	4728.1	--	--	--	--	--	--	--	--	--	--	--	--
FY 1990 Unapproved FTE													16.0			
OSWER Subtotal	3.7	293.2	7871.4	8164.6	22.3	1259.4	2357.8	3617.2	28.9	2087.3	1868.7	3956.0	48.0	2628.3	4313.5	6941.8
3) OARM																
TRLY5G Admin Mgmt	0.3	33.0	145.1	178.1	--	--	--	--	--	--	--	--	--	--	--	--
TRMY5G ADP Support		928.2	317.7	1245.9	--	--	--	--	--	--	--	--	--	--	--	--
OARM Subtotal	0.3	961.2	462.8	1424.0												
Title III Prog. Elem. Subtotal	6.7	1707.1	12962.5	14669.6	60	3473.4	8318.3	11791.7	78.4	5502.2	10692.3	16194.5	158.2	8022.8	19114.3	27137.1
4) OECM - Legal Support	--	--	--	--	--	--	--	--	4.2	196.7	--	196.7	14.0	1200.0	--	1200.0
FY 1990 Unapproved FTE													10.0			
OECM Subtotal	--	--	--	--	--	--	--	--	4.2	196.7	0.0	196.7	24.0	1200.0	0.0	1200.0
5) ORD - Technical Support	--	--	--	--	--	--	--	--	--	--	--	--	1.0	82.9	467.0	549.9
GRAND TOTAL of Agency Title III resources	6.7	1707.1	12962.5	14669.6	60.0	3473.4	8318.3	11791.7	82.6	5698.9	10692.3	16391.2	183.2	9305.7	19581.3	28887.0

*OARM Title III p.e. incorporated into Info Mgt program in 1989. Resources no longer tracked separately.

**Includes FY 1990 unapproved FTE & associated S&E in OPTS, OSWER, OECM. Accounts for GRH and Sec. 517 reductions

SARA Title III

SENATOR LAUTENBERG: Please provide the same information for FY 91 based on the projections of the FY 91 budget request. Please provide the same information for the FY 91 request submitted to OMB from EPA, but which was not approved for inclusion in the budget.

ANSWER: See the attached chart displaying the FY 1991 OMB request and President's Budget for Title III activities.

TITLE III RESOURCE SUMMARY (dollars in thousands)		FY 1991 OMB Request				FY 1991 Pres Bud			
		FTE	Intra$	Extra$	Total$	FTE	Intra$	Extra$	Total$
PSL9G	OPTS EPCRA								
	Headquarters	60.0	4023.4	10900.8	14924.2	54.8	3173.0	10839.7	14012.7
	Regions	13.0	721.5	3.4	724.9	13.0	698.0	--	698.0
PIL3G	OPTS EPCRA Enf								
	Headquarters	3.0	190.3	2515.3	2705.6	3.0	177.8	2474.9	2652.7
	Regions	8.0	444.6	1.5	446.1	8.0	403.0	--	403.0
OPTS Subtotal		84.0	5379.8	13421.0	18800.8	78.8	4451.8	13314.6	17766.4
2) OSWER									
PUD9G	Emerg. plan/R-t-K								
	Headquarters	18.5	1337.5	4289.2	5626.7	12.0	1075.0	2938.0	4013.0
	Regions	40.0	2589.0	128:4	2717.4	25.0	1465.0	--	1465.0
OSWER Subtotal		58.5	3926.5	4417.6	8344.1	37.0	2540.0	2938.0	5478.0
OECM - Legal Support		28.0	1300.0	--	1300.0	28.0	1300.0	--	1300.0
ORD - Technical Support		2.0	242.9	1474.7	1717.6	1.0	106.9	474.7	581.6
GRAND TOTAL of Agency Title III resources		172.5	10849.2	19313.3	30162.5	144.8	8398.7	16727.3	25126.0

SARA Title III

SENATOR LAUTENBERG: Please indicate what activities that could have been accomplished pursuant to this EPA request to OMB, are not likely to be accomplished as a result of OMB's reducing this request.

ANSWER: While additional resources would have strengthened some activities, EPA considers Title III an Agency priority and is pursuing a comprehensive agenda. No critical activity would be stopped by funding at the President's Budget level.

Provision of the resources requested by the Agency to OMB would have resulted in the following activities:

OSWER:

Emergency Planning

1) A more comprehensive update and revision of emergency planning guidance.

2) A more intensive review of the regional instructor training program for the State Emergency Response Commissions (SERCs) and the Local Emergency Planning Committees (LEPCs).

SARA Title III

SENATOR LAUTENBERG: Assuming that the Administration had complied with the full SARA Title III FY 90 appropriation (including the 42 Congressionally added workyears), what would have been the total dollar amount for SARA Title III EPA programs?

ANSWER: The total dollar amount, including the intramural dollars for the 42 add-on workyears and accounting for the across-the-board reductions, would have been approximately $28.9 million. That figure represents $19.6 million in extramural funding and $9.3 million in intramural funding for 183.2 workyears in OPTS, OSWER, OECM and ORD.

SENATOR LAUTENBERG: What is the dollars size of the decrease from this FY 90 appropriation when compared to the FY 91 budget request? What activities that could have been accomplished with the full Congressional appropriation for FY 90, will not be accomplished due to the FY 91 proposed cuts?

ANSWER:

Title III Activities

	FTE	$Int.	$Ext.	$Total
FY 90 Appropriation	183.2	$9.3M	$19.6M	$28.9M
FY 91 Pres. Budget	144.8	$8.4M	$16.7M	$25.1M
Difference:	38.4	$0.9M	$ 2.9M	$ 3.8M

The Agency considers Title III to be a high priority and will continue to support and enhance ongoing activities in FY 1991. OSWER will continue its technical assistance and training to states for implementing and improving local emergency response plans and enforcement programs. OPTS will also provide technical assistance to states on the interpretation of and possible uses for data obtained through the Toxics Release Inventory. OECM will continue to concentrate enforcement activities for various sections of Title III. Any additional resources in FY 1991 would have further enhanced and expanded technical assistance and training programs.

EMISSIONS INVENTORY

SENATOR LAUTENBERG: The EPA document entitled "Summary of the 1991 Budget," suggests (p. 28) that decreases in requested funds for emissions inventory work reflect efficiencies and streamlining of the program.

a. Are these referenced efficiencies and streamlining measures in place currently? If so, please describe them in detail.

ANSWER: EPA is looking at a number of technological approaches to, over time, reduce its per form costs for entering and assuring the quality of the TRI data.

Most advanced is the encouragement of facilities to submit data to EPA in magnetic media format (generally, on floppy diskettes). EPA began laying the groundwork for this approach in early 1988 when it developed Magnetic Media Reporting Instructions. Approximately 700 forms for Reporting Year 1987 were submitted in magnetic media format in July, 1988. This process continued when, in November, 1988, EPA held a public meeting to encourage companies and software developers to develop magnetic media software programs. Through continuing work with these groups, approximately three times as many forms were submitted on magnetic media for Reporting Year 1988 as had been for 1987. EPA is continuing to work with software developers and companies to increase use of this reporting approach. As of this time, seven developers or companies have sought EPA approval for their magnetic media software (EPA evaluation is limited to whether the data loads correctly), and we know of development efforts underway at additional firms. The commercial software ranges in price from $149 to $2,300.

In addition, EPA will be undertaking an Optical Character Recognition (OCR) pilot project for Reporting Year 1989 reporting. Through the use of OCR technology EPA is hoping to speed up data entry for facilities submitting their TRI data on paper. This pilot will be targeted at facilities that submit four or fewer forms who might, therefore, be disinclined to submit using magnetic media. If the pilot is successful, we would anticipate that a substantial number of the Reporting Year 1990 forms will be submitted in OCR-readable format. Thus, the cost saving aspects of this technology will begin to become apparent in FY 1991.

EPA is considering requiring reports in either electronic format (magnetic media or Electronic Data Interchange) or OCR-readable format in the future.

EMISSIONS INVENTORY

SENATOR LAUTENBERG: The EPA document entitled "Summary of the 1991 Budget," suggests (p. 28) that decreases in requested funds for emissions inventory work reflect efficiencies and streamlining of the program.

b. If any additional efficiencies and streamlining measures are projected to be initiated in the future, please describe them in detail, indicating the date each one will be initiated, the cost of implementing each such measure, and whether such cost is included in the FY'91 request.

ANSWER: EPA will use FY 1990 resources to develop a "facility name and address file" that, when implemented, will speed up data entry and improve data quality. The basic approach will be to use the file as a type of "look-up" table, so that keyers will only need to input a unique TRI identication number (which has been supplied to our regulated community) to call up the historical data from the "look-up" table. This will save keying time, and verification time as well. EPA will be implementing this file for the data to be submitted in July 1991.

Also in FY 1990, EPA is considering acquiring or developing a magnetic media software package which would be sent to all TRI submitters, as a way of encouraging magnetic media reporting. Finally, $40,000 of the FY1991 request is earmarked for beginning a pilot project concerning use of the Electronic Data Interchange approach to TRI form submission. Use of EDI would speed data receipt and data entry.

SENATOR LAUTENBERG: The EPA document entitled "Summary of the 1991 Budget," suggests (p. 28) that decreases in requested funds for emissions inventory work reflect efficiencies and streamlining of the program.

c. For all current and future efficiencies and streamlining measures, please indicate the total cost savings each will achieve.

ANSWER: The cost to EPA for the activities which in our budget are referred to as "forms processing" is approximately $14 per form. Forms processing includes a variety of activities, from picking up the mail to controlling the paper flow to data entry to quality control activities. Only the data entry (and a portion of the data quality) activities so funded will be affected by the technological approaches discussed above. Because we do not have full experience with any of these technologies we are not able at this time to define the cost savings precisely. However, some costs savings are reflected in the FY 1991 request by virtue of the fact that the cost per form is not increased over the FY 1990 cost, despite increases in wages under the Agency's data entry contract. We estimate that the use of magnetic media or OCR format will result in about a one-third reduction in forms processing costs (to about $9.50/form) in future years for those forms received in either magnetic media or OCR format.

EMISSIONS INVENTORY

SENATOR LAUTENBERG: The EPA document entitled "Summary of the 1991 Budget," suggests (p. 28) that decreases in requested funds for emissions inventory work reflect efficiencies and streamlining of the program.

d. For all current and future efficiencies and streamlining measures, please indicate how they relate, if at all, to quality assuring the section 313 data, to preparing section 313 data for release to the public more expeditiously, to improving enforcement of the section 313 requirements, to providing section 313 to the public either through more user-friendly automated means, or through improved unautomated alternative means.

ANSWER: Because the various technological approaches described above (magnetic media, OCR, and EDI reporting) all allow for more rapid capturing of the data and its entry into the EPA system, all will foster earlier public availability of the data (assuming the number of forms is held constant). The earlier availability of the data will also foster EPA enforcement activities. Currently, EPA's primary EPCRA section 313 enforcement strategy is to identify and prosecute non-reporters. With each successive reporting year, EPA's regional inspectors identify which facilities reported on what chemical substances. The remainder of the regulated community represents EPA's primary enforcement targets. Therefore as the Agency increases its efficiency and accuracy in performing the data entry process, EPA's inspectors will be able to initiate and prosecute enforcement actions more effectively.

With respect to data quality, EPA looks at TRI data quality as involving three basic types of activities:

- o Activities which are designed to prevent or identify data entry errors;
- o Activities which are designed to correct obvious submitter errors (e.g., incorrect CAS numbers); and
- o Activities which are designed to enhance use of the TRI data (e.g., insuring that all submissions from Du Pont are entered in the same way ["Du Pont" first, division second] to facilitate searching for company data], and that all submissions from Los Angeles County have "Los Angeles" listed in the county field, not "LA," "L.A.," etc.)

The particular efficiency/streamlining methods described in response to the questions above are primarily designed to deal with the first data quality activity listed above. Additional activities are undertaken with respect to the second and third types of data quality efforts.

SECTION 313 REPORTING FORMS

SENATOR LAUTENBERG: What was the exact duration in days between the time EPA received the section 313 reporting forms for 1987 to the time EPA publicly released the toxics release inventory data? What do you project the duration in days to be between the time EPA received the reporting forms for the 1988 data to the time EPA will publicly release the data? Please also indicate the duration in days from form receipt to the release of the National Report on the data. Please also make such projections for the 1989, and 1990 data, and for any future years for which EPA can project.

ANSWER: EPA first released the 1987 TRI data to the public in the form of a magnetic tape in early May 1989, approximately 10 months after the data was received. The TRI/NLM database became available to the public on June 19, 1989, as did the National Report, 11-1/2 months from receipt of the data.

For the 1988 data, EPA currently projects that the TRI/NLM database and magnetic tapes will be available to the public by April 18, 1990. This is 9-1/2 months from data receipt. The National Report for 1988 (with analysis of both year's data) will be available in June 1990, approximately the same time as last year.

With respect to data availability for 1989 and 1990 data, EPA would project that a schedule similar to that of the 1988 data will be followed. It is important to note that TRI represents a great deal of data, all of which must undergo a substantial amount of data quality activities, placing some absolute limits on how quickly the data can be made available. EPA is projecting an increase in the number of forms received in 1989 and 1990. This will offset the gains achieved by the use of more efficient technological approaches to data submission and entry. In addition, data quality activities will need to be conducted for the increased number of forms.

EPA does not have sufficient data at this time to project dates for public availability beyond the 1990 reporting year.

SENATOR LAUTENBERG: Please indicate or project the number of data reporting forms received or to be received by EPA for processing pursuant to section 313 in each of the years 1988, 1989, 1990, and any future years for which EPA can project.

ANSWER: The following table shows the number of forms received in reporting years 1988 and 1989, and estimates for 1990 and 1991. Please note that 5-10% of all forms are revised by the submitter, increasing the amount of data to be handled, data entered, quality controlled, etc.

Reporting year 1987 (rec'd 1988) - 75,000
Reporting year 1988 (rec'd 1989) - 85,000
Reporting year 1989 (rec'd 1990) estimate 100,000
Reporting year 1990 (rec'd 1991) estimate 120,000

SARA TITLE III DIRECTIVES

SENATOR LAUTENBERG: Please indicate how EPA has responded to each specific SARA Title III directive of the Senate report accompanying H.R. 2916, the FY 90 HUD, VA-Independent Agencies Appropriations bill. Please give specific information on activities to meet each directive. Please indicate, which if any directives, have not been complied with. For each directive not yet complied with, indicate whether and when in FY 90 such directive will be complied with. If any of the directives from the FY 90 Senate report will not be complied with due to lack of funds, please indicate what additional resources (FTEs or dollar amounts or both) would be necessary to achieve compliance in FY 91.

ANSWER: EPA is funding Title III activities consistent with the Senate report.

Of the three million in add-on resources appropriated in FY 1990, the Office of Pesticides and Toxic Substances received $1.5 million to carry out directives in the Senate report accompanying H.R. 2916. Work on these areas are currently underway, with resources distributed as follows:

CONGRESSIONAL CATEGORY	FY 1990 ADD-ON $ (DOLLARS IN THOUSANDS)
1) Providing Quality Assurance for Section 313 Data	385.0
2) Processing Section 313 Forms	565.0
3) Using Section 313 Data Widely Throughout EPA	200.0
4) Making Section 313 Data Publicly Available Sooner	150.0
5) Providing Source Reduction Information	(accomplished with base FTE)
6) TRI Compliance Activities	200.0
TOTAL	1,500.0

Projects and activities to be undertaken in 1) above include significant expansion of data reconcilation activities, working directly with submitters who have made errors in their submission and resolving problems by telephone, and modifying computer programs to ensure they run concurrently with batch up dates; projects and activities in 2) above include expanding capacity for additional data entry and more on line access for corrections, and developing and implementing outreach programs for companies to submit their forms in magnetic media or OCR format; in 3) developing software for cross-year extracts and corresponding data analyses; in 4) developing variable length tape format to speed up indexing time on the NLM system. FTEs to manage these Extramural resources have been provided from the base TRI program. Projects undertaken using FTE resources from the base TRI program in category 5) will support increased dissemination of source reduction information to a wider public audience. In 6) TRI compliance activities including redoing the section 313 penalty policy; providing guidance to the Regions on section 313 policy; developing policies on trade secrets; and developing guidance on achieving pollution prevention under settlements with conditions.

The Office of Solid Waste and Emergency Response received $1.5 million in the Abatement Control and Compliance appropriation to carry out directives in the Senate report accompanying H.R. 2916. Activities are proceeding according to the following resource distribution.

CONGRESSIONAL CATEGORY	FY 1990 ADD-ON $ (DOLLARS IN THOUSANDS)	
1) Technical Assistance		1,350.0
a. Grant Program	1,200.0	
b. Guidance documents & workshops	50.0	
c. Enhancement of CAMEO	100.0	
2) Enforcement		150.0
Augment enforcement targeting project		
TOTAL		1,500.0

Projects and activities to be undertaken in 1a) above include utilizing a grant program to the States under the TSCA 28 authority to help states enhance the effectiveness of the Local Emergency Planning Committees (LEPCs) in the emergency planning process. Activities in 1b) above include continued development of technical guidance materials and workshops to assist state and local governemnts in developing their emergency response capabilities. Activities in 1c) above include the further development of the Computer Aided Management of Emergency Operations (CAMEO) utilized by SERCs and LEPCs in planning for and responding to chemical emergencies. In 2) as part of the Agency's goal to increase overall compliance with statutory requirements and build State enforcement capabilities, increased resources will augment a current project to develop an enforcement targeting and outreach tool designed to identify facilities that may have EPCRA-related chemicals present.

The Office of Enforcement and Compliance Monitoring received no additional resources as a result of the EPCRA add-on. OECM will maintain its ongoing workload to address noncompliance with the release and inventory notification requirements. In particular, OECM will work on formalizing EPA/State enforcement agreements and selecting administrative and judicial penalty cases against violators

POLLUTION PREVENTION

SENATOR LAUTENBERG: EPA's documentation during 1989 consideration of the FY 90 budget indicated a significantly lower total dollar value for FY 90 pollution prevention activities than EPA's documents now suggest for the FY 90 current estimate. Does the higher current estimate reflect increased activities for pollution prevention? If so, what are the specific increases by function and by office from the levels used by EPA in its 1989 discussion of the FY 90 budget?

ANSWER: The increased FY 90 current estimate demonstrates the new commitment to pollution prevention on the part of EPA's senior management both through a shifting of resources into pollution prevention activities as well as improved identification of activities in the Agency that already are preventative in nature. This reflects a profound change in the way the Agency does business: EPA is now beginning the transition away from a primary focus on end of the pipe pollution controls towards pollution prevention, with its focus on use and source reduction, and reuse and recycling. The pollution prevention ethic is being integrated into all facets of Agency operations.

SENATOR LAUTENBERG: What, if any, role does a broadening of the definition of "pollution prevention" play in the increase of the current estimate for FY 90 when compared to the Agency's 1989 assessments of the FY 90 budget?

ANSWER: The definition of pollution prevention itself has not played a significant role in the increase of the current estimate for FY 90. Rather, the commitment of the Administrator and the Agency's senior management has led to improved identification of program activities that are clearly within the Agency's definition of pollution prevention and to resource shifts away from pollution control towards pollution prevention. This is consistent with the Agency's pollution prevention hierarchy. That is, in pursuing waste management options, the first choice should be use and source reduction, the second should be recycling and reuse, the third treatment, and the fourth disposal. In addition, this focus continues the pollution prevention program's emphasis on multimedia prevention for both hazardous and non hazardous waste.

SENATOR LAUTENBERG: If EPA were to use the same definition of "pollution prevention" that it used in 1989 to describe the FY 90 budget, what would the total dollar value be for FY 91 "pollution prevention"?

ANSWER: Since we have refined rather than substantially changed our definition of pollution prevention, spending has not been a function of definition. Rather, the Agency has estimated that $82.3 million of the FY 91 budget is targeted for pollution prevention activities. This is a marked increase over estimated current FY 90 spending ($58.4 million), and is a reflection of the Agency's commitment to pollution prevention. For example, through the Agency's competitive 2% Set-Aside Program, $12 million was redistributed among virtually all program offices and Regions specifically to fund innovative projects in waste minimization for FY 91. As EPA's pollution prevention program continues to evolve, the activities and resources indentified under the pollution prevention category are subject to change and refinement. Pollution prevention represents a significant change in the way the Agency has traditionally done business, and the increase in estimates is a reflection of this.

SEMATOR LAUTENBERG: Please describe in detail how EPA defined "pollution prevention" in 1989 when describing the FY 90 budget. Please also describe in detail how EPA defines "pollution prevention" in its current estimates for FY 90 and description of FY 91 budget.

ANSWER: The proposed pollution prevention policy statement, which appeared in the Federal Register of January 26, 1989 (OSWER-FRL 3421), articulated a pollution prevention hierarchy that "encourages organizations, facilities, and individuals to fully utilize source reduction techniques in order to reduce risk to public health, safety, welfare and the environment, and as a second preference, to use environmentally sound recycling to achieve these same goals." It then placed an emphasis on industrial source reduction, enunciating acceptable techniques that can achieve this. Our definition has not changed substantially since then. Rather, the increasing Agency emphasis on pollution prevention has encouraged Both the shifting of resources and a reexamination of current activities in light of pollution prevention. Our final draft policy statement refines and expands this notion of the hierarchy, stating that, "the guiding principle of pollution prevention is use and source reduction. Use and source reduction refer to the elimination or reduction of pollution at the source by using less toxic or environmentally degrading materials in the production of products or services or by making processes and practices more energy and material efficient." In addition, this policy continues our emphasis on prevention for both hazardous and non hazardous waste.

RCRA/LUST

SENATOR LAUTENBERG: What is the dollar difference in total and by appropriations account between EPA's request for RCRA and for LUST submitted to OMB and the total dollar amount in the President's budget? What specific activities would have been accomplished with the EPA request to OMB that will not be accomplished by the FY 91 budget for each of these two programs? Please indicate the total funding and the funding by account appropriated to these two program areas in FY 90.

ANSWER: In RCRA, the Agency's 1991 request to OMB was $367.2 million. Of this amount, $117.7 million was for the Salaries and Expenses (S&E) account, $216.5 million was for the Abatement, Control, and Compliance (AC&C) account, and $33.0 million was for the Research and Development (R&D) account. The President's budget requests a total of $317.1 million, of which $96.2 million is for the S&E account, $194.6 million is for the AC&C account, and $26.3 million is for the R&D account. This represents reductions of $50.1 million, including, $21.5 million and $21.9 million in the S&E and AC&C accounts respectively, and a $6.7 million reduction in R&D.

In general, the difference between the Agency's request to OMB and the President's budget request reflects different assumptions about how much can be accomplished in the budget year. Sometimes they reflect changes in degree of emphasis on various activities, rather than elimination of specific activities. For example, the Agency's request to OMB included a greater increase over 1990 levels for post-closure permitting, corrective action inspections at newly regulated facilities, and information management than the President's Budget. The Agency also requested additional resources from OMB for training, which are not included in the President's request. Headquarters municipal waste activities, though still increasing over 1990 levels in the President's request, were funded at higher levels in the OMB request.

The total appropriated amount in 1990 for RCRA was $269.2 million, of which $78.0 million was for the S&E account, $160.9 was for the AC&C account, and $30.3 for the R&D account. These amounts reflect the Gramm-Rudmann-Hollings (GRH) budget deficit reductions.

EPA requested $133.6 million for the LUST budget to OMB. The President's budget submission is $75.6 million. The President's budget will provide Federal support to the states as they build their own state funding resources. Resources in the President's budget will be used for continued program development, oversight of cleanup by owners and operators, and site cleanup by states, as necessary. The increased level assumed a very optimistic schedule for state program development and utilization of resources for enforcement and cleanup. In fact, by the time the President's Budget was finalized, experience to date led to a more moderate assumption about program development and resource needs in 1991.

In 1990, the LUST appropriation is $74.1 million, including GRH reductions.

MARINE PLASTIC POLLUTION RESEARCH AND CONTROL ACT OF 1987
TITLE II OF P.L. 100-220

SENATOR LAUTENBERG: Assuming the President's FY 91 budget request for EPA is approved by Congress, and enacted, are there any required deadlines, including but not limited to deadlines under Subtitle C (the New York Bight provisions) of the Marine Plastic Pollution Research and Control Act of 1987, applying either individually or jointly to EPA with which EPA will not comply in FY 91 or FY 92? If so, please indicate whether, how much, and to what EPA appropriations accounts the addition of increased resources would result in compliance.

ANSWER: Resource levels in FY 91 and FY 92 are not anticipated to be a significant factor in the Agency's compliance with required deadlines under the Marine Plastic Pollution Research and Control Act (MPFRCA) or related legislation, however the Agency did miss some earlier MPPRCA deadlines due to administrative delays.

Section 2202 of MPPRCA directs EPA to investigate and report on various issues concerning plastics wastes in the environment. This report was transmitted to Congress on February 14, 1990.

Sections 2301 and 2303 of MPPRCA require EPA to issue a series of reports on the New York Bight Restoration Plan. The reports, coordinated by our Region II office, are being prepared by a work group consisting of representatives from EPA, National Oceanic and Atmospheric Administration and other Federal, state and interstate agencies, as well as representatives of local government, the scientific and technical community and the public. The Phase I report, which was due on December 29, 1988, was submitted to OMB for review on March 14, 1990. The report addresses the uses of the Bight that are adversely affected by pollution, pollutant inputs that are affecting water quality and marine resources, and the fate of pollutants responsible for water quality and marine resource impacts, and reviews existing programs that have been set up to control pollution in the Bight. The Phase II report, which was due on December 29, 1989, is being prepared by the work group and should be available for Headquarters review this spring. The Phase II report will present a preliminary plan for applying existing programs to deal with the most significant factors causing or expected to cause use impairments in the Bight. The final report, a submission of the Restoration Plan, is due on December 29, 1990. The workgroup will prepare the Plan by April 30, 1991 for review by Headquarters and OMB. Additional resources would not result in compliance with the statutory reporting dates. The dates reflect the start-up time required to mobilize the work group to meet its responsibilities. The interim and final reports will each fully address the requirements in the statute.

SENATOR LAUTENBERG: Please indicate the amount requested by EPA from OMB for implementing all parts of the plastics pollution law falling under EPA's jurisdiction, as well as the amount requested in the President's budget. If the OMB request exceeded the amount in the President's budget, indicate specifically what activities are likely to have been accomplished by means of the request to OMB that are unlikely to be accomplished due to the OMB reduction.

ANSWER: The following amounts were requested by the Agency from OMB and are included in the President's budget request for FY 91 for implementation of the plastics pollution law:

	S&E	AC&C
Office of Water NY Bight Restoration Plan	$127,000	$ 700,000
Office of Water, Plastic Pollution Studies	162,000	200,000
Office of Solid Waste and Emergency Response, Plastic Pollution Control	120,000	115,000
Total Program	$409,000	$1,015,000
Total Funding: $1,424,000		

SENATOR LAUTENBERG: Please indicate the FY 90 appropriations for all plastics pollution programs by appropriations accounts and in total.

ANSWER: The following amounts have been appropriated in FY 90 for the plastics pollution programs:

	S&E	AC&C
Office of Water NY Bight Restoration Plan	$151,500	$ 900,000
Office of Water, Plastic Pollution Studies	138,500	200,000
Office of Solid Waste and Emergency Response, Plastic Pollution Control	120,000	115,000
Total Program	$380,000	$1,215,000
Total Funding: $1,595,000		

RADON

SENATOR LAUTENBERG: Please indicate by EPA appropriations accounts and by total amounts how much funding EPA requested from OMB for radon programs for the FY 91 budget, as well as the amount approved by OMB for the FY 91 budget. If the EPA request exceeded the amount in the President's budget, please indicate specifically what activities would have likely been accomplished through the EPA request that are not likely to be accomplished due to the OMB reduction. Please also indicate the FY 90 appropriation level for all EPA's radon program by appropriations account and in total.

ANSWER: Of our total request for the Radon Action Program that was submitted to OMB, $1,520,100 (including $177,100 for the Office of Research and Development) for the Salaries and Expense Appropriation, and $1,980,000 for the Abatement, Control and Compliance Appropriation were not forwarded as part of the FY 1991 President's Budget. All of the request for the Research and Development Appropriation was forwarded as part of the President's FY 1991 budget.

If EPA received the full request initially proposed to OMB, the primary activities conducted in FY 1991 in addition to those activities now included in the budget would be the following: (1) providing measurement and mitigation training and technical assistance to non-residential child care facilities, (2) continuing the level of assistance now being provided to Federal agencies including completing measurement protocols, reviewing survey designs, assisting in the conduct of surveys, and analyzing data, (3) completing a report to Congress on radon in Federal buildings, and (4) providing $1 million in additional grant funding to states.

Fiscal Year 1990 appropriation totals for the Radon Action Program (including state grants) are as follows:

Salaries and Expenses:	$4,167,200
Abatement, Control and Compliance	$18,575,300

OCEAN DUMPING/MEDICAL WASTE/OIL SPILL NON-POINT WATER POLLUTION/SHORE PROTECTION

SENATOR LAUTENBERG: Please indicate by EPA appropriations account and by total the funding for each of the five areas, shore protection, ocean dumping, medical waste, non-point water pollution, and oil spills, how much funding EPA requested from OMB for the FY 91 budget, as well as the amount approved by OMB for the FY 91 budget. For each such program, where applicable, if the EPA request from OMB exceeded the amount in the President's budget, please indicate specifically what activities would likely have been accomplished through the EPA request, that are not likely to be accomplished as a result of the reduction. Please also indicate for each of these five areas the FY 90 appropriations by appropriations accounts and in total.

ANSWER: Chart I provides funding details, by appropriation, of the Agency's FY 90 appropriations, the FY 91 OMB request and the FY 91 President's Budget for the five areas.

Shore Protection

The difference between the OMB request and the President's budget request is a slight reduction in the cost associated with workyears.

Ocean Dumping

The difference in S&E resources reflects the fact that EPA's FY 91 OMB request included a total of 49.1 workyears and the President's Budget requests 42.1 workyears for ocean dumping activities. The seven extra workyears included in the OMB request were intended to support EPA's National Coastal and Marine Policy through development of a compliance and enforcement improvement strategy to address enforcement authorities delegated to EPA by the many recently enacted statutes aimed at protecting marine and coastal ecosystems. Fewer workyears will result in somewhat slower development, guidance, and support to the Regions and slower implementation of the strategy at the Regional level.

Medical Waste

The increase in S&E represents additional workyears to complete a report to Congress and provide technical support, training, and outreach assistance to states involved with the medical waste tracking demonstration program.

The reduction in the Abatement, Control and Compliance account represents minor adjustments to the levels of Regional support required to implement the medical waste demonstration program in its final year.

Nonpoint Source Pollution

Although the President's budget request reflects a substantial increase in workyears for FY 91 NPS activities, some regional activities related to technical assistance and outreach, management of NPS grants and implementation of new scientific tools for NPS risk assessment will not be as ambitious as originally planned. The difference in S&E resources reflects the fact that the FY 91 OMB request included a total of 59.9 workyears and the President's Budget requests 51.4 workyears for NPS pollution activities.

Oil Spills

The difference between the OMB and President's Budget request is attributable to adjustments to workyear costs associated with the Salaries and Expenses account. Also, activities related to EPA's Task Force and on-site technical assistance will either not be accomplished or will be reprogrammed from other activities. Research and Development activities will be accomplished over a longer period of time.

SENATOR LAUTENBERG: Please indicate the amount of fees collected pursuant to the Ocean Dumping Ban Act, and projected to be collected, as well as the specific activities funded or to be funded by such fees.

ANSWER: The amount of fees collected under the Ocean Dumping Ban Act (ODBA) Revolving Fund and projected to be collected are as follows:

	1989 ($000)	1990 ($000)	1991 ($000)	1992 ($000)
New Jersey Authorities				
Bergen	63.3	200.0	40.0	0
Joint-Meeting Essex/Union	40.9	190.0	40.0	0
Linden-Roselle	7.9	40.0	10.0	0
Middlesex	209.0	590.0	130.0	0
Passaic Valley	757.3	1,400.0	300.0	0
Rahway Valley	16.0	90.0	20.0	0
New York Authorities				
Nassau	110.0	330.0	260.0	0
New York City	704.7	1,770.0	1,810.0	730.0
Westchester	75.2	180.0	190.0	0
TOTAL	1,984.3	4,790.0	2,800.0	730.0

In 1989, fees were collected for the period August 15 through December 31, 1989. For 1990 and 1991, estimated fees to be collected are for the period January 1 through December 31 of that year. For 1992, estimated fees to be collected are for the period January 1 through June 30, 1992. Please note that New York City will cease dumping 20 percent of its sludge by December 31, 1991 and 100 percent by June 30, 1992.

The Office of Water has received budget authority in FY 90 for $738,532, which will fund the following types of activities:

- Reports to Congress
- Development of Monitoring Plan
- Current-Meter Maintenance and Data Collection
- Water Mass Movement Studies
- Sludge Settling Rate Studies
- Analysis of Fish/Shellfish Tissues
- Submarine Sediment Sampling
- Sediment Survey (and purchase of sediment traps)

- Sludge Manifest Tracking System
- External Peer Review of Technical Strategies/Reports
- Technical Assistance to Permittees
- Data Summary and Survey Analysis Reports
- Preparation of Technical and Public Papers
- Data Management

SENATOR LAUTENBERG: Please indicate the status of implementation of the Shore Protection Act.

ANSWER: A status report on the Shore Protection Act was sent to OMB and was approved without changes. The report was submitted to Congress on March 9, 1990. In summary, the report described the following activities aimed at implementing the Act:

- Initiated in FY 89: interagency workgroup established for development of vessel operations procedures and draft waste handling guidance developed by EPA for use by Regional EPA offices.
- Completed in FY 89: interim conditional permit regulations issued by the Coast Guard in May 1989 and regulations implementing the Medical Waste Tracking Program issued by EPA in June 1989.
- Initiated in FY 90: formal EPA regulatory development process initiated for development of vessel operations regulations.
- Planned for FY 90/FY 91: issuance of final EPA vessel operations regulations.

Other ongoing activities which support the intent of the Act include harbor and other waterway surveys conducted by EPA to identify marine debris sources, implementation of a "Floatables Action Plan" by EPA Region II in the New York Harbor area, yearly volunteer beach clean-ups sponsored by EPA to remove debris, analyze debris amounts and serve as a public involvement and education tool, as well as other educational efforts such as development of pertinent Public Service Announcements.

CHART I. FUNDING REQUEST FOR OCEAN DUMPING/MEDICAL WASTE/OIL SPILL
NON-POINT WATER POLLUTION/SHORE PROTECTION
(Dollars in Thousands)

	FY 1990 Appropriation			1991 OMB Request		Total	1991 President's Budget		Total
	S&E	AC&C	Total	S&E	AC&C	Request	S&E	AC&C	Request
Shore Protection	$134.4	$700.0	$834.4	$156.6	$200.0	$356.6	$153.9	$200.0	$353.9
Ocean Dumping*	$2,560.1	$6,897.8	$9,457.9	$2,563.0	$5,965.1	$8,528.1	$2,159.7	$5,815.1	$7,974.8
Medical Waste	$1,081.0	$0.0	$1,081.0	$766.8	$1,600.0	$2,366.8	$1,344.2	$1,250.0	$2,594.2
Nonpoint Source Pollution	$1,891.2	$41,523.9	$43,415.1	$3,590.6	$16,675.0	$20,265.6	$2,816.7	$16,675.0	$19,491.7
Oil Spills*	$2,517.3	$2,126.0	$4,643.3	$4,804.6	$9,940.0	$14,744.6	$2,365.0	$6,682.8	$9,047.8
TOTAL RESOURCE REQUEST	$8,184.0	$51,247.7	$59,431.7	$11,881.6	$34,380.1	$46,261.7	$8,839.5	$30,622.9	$39,462.4

*These amounts include funds requested in the R&D appropriation.

ALLOCATION OF CONSTRUCTION GRANTS FUNDS

SENATOR LAUTENBERG: What is the amount requested in the President's Budget and the amount appropriated by fiscal year since the inception of the Construction Grants program?

ANSWER: Funds requested and appropriated for Construction Grants since the program's inception are listed as follows:

CONSTRUCTION GRANTS
PRESIDENT'S BUDGET VS. APPROPRIATED LEVEL
1971 – 1991

(Dollars in Thousands)

YEAR	PRESIDENT'S BUDGET REQUEST	AMOUNT APPROPRIATED
1971	–	$1,000,000.0
1972	$2,000,000.0	$2,000,000.0
1973	$2,000,000.0	$1,900,000.0
1974	–	–
1975	–	–
1976	–	–
1977	–	$1,980,000.0
1978	–	$4,500,000.0
1979	$4,500,000.0	$4,200,000.0
1980	$3,800,000.0	$3,400,000.0
1981	$3,700,000.0	$1,604,837.0
1982	$3,700,000.0	$2,400,000.0
1983	$2,400,000.0	$2,430,000.0
1984	$2,400,000.0	$2,435,000.0
1985	$2,400,000.0	$2,400,000.0
1986	$2,400,000.0	$1,774,200.0
1987	–	$2,361,000.0
1988	–	$2,304,000.0
1989	$1,500,000.0	$1,950,000.0
1990	$1,200,000.0	$1,948,029.0
1991	$1,600,000.0	NA

COASTAL DEPOSITION

SENATOR LAUTENBERG: Please indicate the status of the study requested in the Senate report accompanying the FY 1990 Appropriation bill concerning atmospheric deposition in coastal waters.

ANSWER: The requested EPA study is undergoing an interagency peer review process to provide accurate characterization of research needs and Federal coordination. Comments are requested by mid-May and the report should be completed by the end of June.

WORKYEARS

SENATOR LAUTENBERG: What are the total number of workyears in the FY 91 budget? Has or will OMB suggest a workyear ceiling for EPA for FY 91? If OMB has suggested a ceiling, what is it? If OMB has not yet, but is expected to provide such a ceiling, please provide this information at that time.

ANSWER: The total number of workyears in the FY 91 budget is 16,761.0. This is also the FTE ceiling for 1991. The breakdown, by appropriation, is provided below.

APPROPRIATION	WORKYEARS
Salaries and Expenses	12,540.5
Leaking Underground Storage Tanks	90.4
Superfund	3,467.2
Inspector General	350.4
Reimbursables	62.0
Ocean Dumping	12.0
FIFRA	238.5
TOTAL	16,761.0

QUESTIONS SUBMITTED BY SENATOR FOWLER

SOUTHERN COMMERCIAL FOREST RESEARCH COOPERATIVE

SENATOR FOWLER: Forestry is one of Georgia's most important industries, and we're all deeply concerned about the effects of acid rain, ozone, and other air pollutants on our forest resources. I know that EPA has joined the US Forest Service and members of the forestry industry in contributing resources to the Southern Commercial Forest Research Cooperative, a 5 year program of university research in this area. I understand that EPA dedicated approximately $2.8 million to this effort over fiscal years '88 and '89 but withdrew its support for FY90.

I am eager to know why support for this important project was discontinued and what level of involvement you plan for the coming fiscal year.

ANSWER: The Southern Commercial Forest Research Cooperative (SCFRC) is part of the Forest Response Program (FRP) which is designed to study the effects of acid deposition on forest trees. Both the National Acid Precipitation Assessment Program (NAPAP) and the FRP will be completed at the end of FY 90 as will our agreement to support the SCFRC. EPA feels that resources need to go to the assessment phase of the NAPAP.

EPA's original intention in participating in the Cooperative was to determine the role which acid deposition plays in the health of these forests. Research indicates that there are no short term foliar mediated effects of acid rain on southern pines and that soil mediated and ozone effects may be more significant. EPA has a research program, including the Southeast, that will continue research on effects of ozone on forest trees. In FY 1990, this research effort is funded at $1.2 million. Other programs in global climate and long term monitoring may examine southern forests as appropriate.

SOUTHERN OXIDANTS STUDY

SENATOR FOWLER: The Southeast region, and especially our Atlanta metropolitan area, faces unique challenges in controlling its atmospheric ozone levels to those considered safe by the EPA. Recent research suggests that natural hydrocarbon emissions from trees and other vegetation may be exacerbating our ozone problem. Other contributing factors include: rapid population growth in the region and summer weather patterns which inhibit the dilution of ozone concentration.

A consortium of scientists in the Southeast have proposed the Southern Oxidants Study, a research project that would investigate the root causes of the region's ozone situation and recommend solutions tailored to the unique factors at work. Please tell me how EPA is addressing this issue and whether the Agency will be dedicating resources to the Southern Oxidants Study.

ANSWER: Atmospheric scientists at EPA share the concern about the Southern ozone problem as presented by the Sunbelt Institute and Southern academic institutions. EPA has been interacting very closely with the Sunbelt Institute and associated Southern universities for the past 1-1/2 years, and has been active in reviewing the Sunbelt Institute-proposed Southern Oxidants Study

(SOS). To help the research planning process, EPA has been providing resources to Southern universities. In FY 1990, EPA plans to award some $440 thousand to Southern universities to support the planning process and initiate some SOS research projects. In addition, EPA plans to redirect a field study program to the Atlanta area. While the EPA field study has been primarily designed to provide the EPA's regulatory program valuable information regarding the proper siting of air quality monitors, it will also provide air quality data to support the SOS study. Additionally, EPA is conducting various in-house chemistry and air quality modeling studies on SOS related objectives.

In FY 1991, EPA plans to provide $1 million from its budget request for direct and indirect support of the SOS. EPA will continue to work closely with the SOS scientists to help determine the causes of ozone non-attainment in the Southeast.

RURAL WATER INITIATIVES

SENATOR FOWLER: The Georgia Rural Water Association has provided training and technical assistance to managers of 372 water systems over the past year. This important work has been made possible by an EPA-sponsored program set up to help states comply with the Safe Drinking Water Act. I'm certainly thankful for the progress we're making in the area of safe drinking water, and I'm also concerned about the quality of the groundwater that our small and rural systems rely on. Could you please tell me what efforts are being made to get these systems and their state rural water associations involved in monitoring and protecting groundwater?

ANSWER: EPA is applying the wellhead protection concept in protecting underground sources of drinking water, putting emphasis on the most critical and vulnerable aquifers that sustain public water systems. The systems themselves are encouraged to make thorough vulnerability assessments, gauging the present and potential risks to their ground-water sources, establishing their monitoring priorities and thereby streamlining their regulatory monitoring requirements. In addition, the Agency is working with the Agricultural Extension Service and the National Rural Water Associations as well as other technical assistance organizations to increase public awareness of water systems and ground-water contamination concerns. The importance of monitoring and the need to protect our natural resources is part of EPA's pollution prevention initiative. EPA is also participating in the Rural Water 2000 conference that is scheduled for September 1990.

INTEGRATED PEST MANAGEMENT

SENATOR FOWLER: Research into integrated pest management is essential to our effort to protect the nation's groundwater, endangered species, and the food supply. EPA's FY90 Budget for the Office of Pesticides and Toxic Substances included $1 million for establishing an Integrated Pest Management (IPM) advisory council and for IPM research efforts. I understand that none of this money has been spent as it was intended.

I'm eager to know if EPA plans to fund new IPM projects and, in general, what role you feel the Office of Pesticides and Toxic Substances should take in IPM research?

ANSWER: The Senate Report for the 1990 Appropriations Bill directed "that up to $1,000,000 of the [Salaries and Expenses] funds provided for the Office of Pesticide Programs shall be used to establish an advisory group with the U. S. Department of Agriculture (USDA) for planning and directing research, development, and transfer of alternative, biologically based crop production systems. Such alternatives are to include microbial pesticides, bioengineered crops, pheromones, and other insect behavior modifying biochemicals, predators, and parasites, as well as improved cultural practices. The Committee recommends that the advisory group be composed of scientists, farmers, food processors, health officials, and nonprofit organizations to identify pesticide uses for which alternatives are critically needed."

EPA is undertaking a number of activities to implement this directive. Initial contact with USDA has been made, and the following proposals are currently under discussion:

Two workshops are being discussed. The first will deal with IPM in the agricultural sector, and the second with IPM in the non-farming sectors.

The first workshop will bring together key individuals from the federal level, including EPA, USDA, and FDA; representatives from the States, academia, agriculture, and industry; and environmental and consumer groups. This workshop will consider the roles of and coordination between each of these groups, and identify barriers to timely development and transfer to users of biologically based IPM technologies. Upon completion of the workshop, USDA and EPA will develop a report summarizing the results of the workshop.

A similar program is planned for the workshop on IPM in the non-farming sectors. A report of the results of this workshop is also planned. Other activities are also in the planning stage.

The $1.0 million provided for IPM efforts in the Office of Pesticide Programs (OPP) was not an augmentation to the Agency's budget, but rather it was an earmarking of OPP's program budget in the Salaries and Expenses appropriation. OPP also incurred a $1 million reduction in its FY 1990 Salaries and Expenses funds [illegible] to the Gramm-Rudman sequestration and Section 517 drug control across-the-board reduction.

The reduction in extramural funds was even larger. This situation has made it very difficult to reprogram significant funding to support the USDA coordination effort. We believe that the workshops and coordination activities described above will deliver the substantive support of IPM intended by Congress.

INTEGRATED PEST MANAGEMENT

SENATOR FOWLER: I understand that OMB has eliminated this Office's IPM research budget and transferred the responsibility to USDA. Section 28 of FIFRA states that EPA and USDA are to cooperate in IPM research, and I'd like to hear your thoughts on EPA's exclusion from participating in this critical effort. One concern that I have is that USDA disperses funds to state research programs by formula, whereas EPA can selectively fund those state programs which are the most biologically-based and environmentally responsive.

ANSWER: EPA does not consider itself as being excluded from the USDA Integrated Pest Management (IPM) research effort and responsibility. In fact, EPA works closely with USDA in all efforts relating to IPM research.

EPA is undertaking a number of activities to implement the Congressional directive to establish an IPM advisory council for IPM research efforts. Initial contact with USDA to discuss the advisory council has been made, and two workshops are being considered. The first will deal with IPM in the agricultural sector, and the second with IPM in the non-farming sectors.

It is our belief that USDA is the appropriate Department for conducting and promoting IPM practices since the agricultural community (particularly farmers) is the constituency that needs to be educated and convinced of the merit of these practices. Therefore, it is logical that USDA would maintain the lead in IPM research, with assistance from EPA.

WOOD PRESERVING INDUSTRY REGULATION

SENATOR FOWLER: The wood preserving industry currently has 55 facilities operating in my state. Last April, I wrote to you regarding regulations proposed by EPA in December of 1988 for several wastes and residuals generated by the wood preserving industry.

In my letter, I brought to your attention the industry's proposal for regulation under a multi-statute approach. Under this framework, stormwater and wastewater discharges would be regulated under the Clean Water Act; wastewater, process, and treated wood residuals would be controlled using RCRA and pesticide drippage (excess pesticide that is contained and collected for reapplication) would be regulated under FIFRA, using labeling restrictions as intended.

Would you please provide me with an update on the status of the final regulation with an explanation of the Agency's position on the multi-statute approach?

ANSWER: The Agency is continuing to consider the comments received on the proposed rule and is in the process of selecting a regulatory approach for this rulemaking. The comments you made, as well as all the others received, are being given serious consideration in the process of our deliberations. The Agency intends to promulgate a final decision in November 1990.

QUESTIONS SUBMITTED BY SENATOR KERREY

GROUND-WATER RESEARCH AND POLICY

SENATOR KERREY: Finally, I would like to have your comments on where you see EPA going in terms of ground water research and groundwater policy. As I understand it, we really know very little in the groundwater area. We know, for example, that contaminants migrate, but we really don't understand much about the route they take to the water table, how they respond to various soils and sediment, which is fairly basic.

ANSWER: EPA's ground water research program will continue to support the Agency's mandates and programs for the prevention and remediation of contaminated ground water. This includes research on monitoring systems for ground water, understanding transport and transformation of contaminants in the subsurface, and evaluating remedial methods for contaminated ground water. Understanding and controlling subsurface contamination is a very complex subject, and is likely to continue to be a challenge for the Agency's research in the future.

In terms of ground water policy, the EPA Ground-Water Task Force is working toward its goal of developing initiatives to assure safe sources of ground-water for drinking and supporting ecological systems. The Task Force has released, and invited interagency review and public comment on, EPA's Principles of Ground-Water Protection which include EPA policy "to prevent adverse effects to human health and to protect the environmental integrity of the nation's ground-water resource." The Task Force will complete its work by June 1990.

Central to EPA policy will be retaining primary responsibility for ground-water protection at the state level. While the Federal government has an important role in research, oversight and technical and financial assistance, a traditional state function, land use management, is required to control most contaminant sources not now regulated. Consequently, the Agency sees ensuring state development of comprehensive ground-water protection programs as the most effective means of safeguarding the resource.

EPA policy will also promote consistency and integration in ground-water protection efforts. Comprehensive protection of the resource requires coordination among various EPA programs as well as other Federal and State agencies with ground-water responsibilities. Care must be taken not to establish separate, uncoordinated programs for each source of ground-water contamination; to do so would result in confusion and uneven, if not inequitable, protection measures. As such, EPA is placing special emphasis on coordination of activities with U.S. Department of Agriculture.

NEBRASKA SUPERFUND SITES

SENATOR KERREY: Could you please provide us an overview of Superfund sites within the State of Nebraska and outline EPA's involvement in each site.

ANSWER: Eight sites on Superfund's National Priorities List (NPL) are located in Nebrasaka, they are: the Cornhusker Army Ammunition Plant; Hastings Groundwater Contamination; Lindsay Manufacturing Company; Monroe Auto Equipment Company; Nebraska Army Ordnance Plant; Phillips Chemical Co-Hoag Plant; and the 10th Street Site.

The Cornhusker Army Ammunition Plant site was finalized on the NPL on July 22, 1987. This site covers an estimated nine square miles in Grand Island, Nebrasaka. The aquifer that is the sole source of water for the residents of Grand Island has been contaminated by trinitrotoluene (TNT) and cyclonite (RDX). There are no areas subject to the Subtitle C corrective action authorities of the Resource Conservation and Recovery Act (RCRA) within the boundaries of this Federal facility. Therefore, the site was placed on the Federal section of the NPL. A removal was executed during 1987 and completed in 1988. The U.S. Army Corps of Engineers (USACE) oversaw the incineration of 22,000 cubic yards of contaminated soils. A Remedial Investigation/Feasibility Study (RI/FS) is scheduled for mid-1990, with a planned completion in late 1992. The remedial action (RA) is expected to begin in 1994 and end in 1996.

Please see the following response for information on the Hastings Groundwater Contamination site.

The Lindsay Manufacturing Company site was finalized on the NPL on October 4, 1989 and contains a lagoon covering 0.1 acres. This waste lagoon was unlined and groundwater serving Lindsay has subsequently been contaminated. Five municipal wells have been contaminated by acids, metals, and volatile organic compounds (VOCs). Under a Stipulated Agreement issued by the State, the company has removed the source of contamination and is purging the groundwater. Lindsay has pumped and treated groundwater by neutralization and precipitation. The State is monitoring the groundwater restoration program. Lindsay is installing monitoring wells both on-site and off-site to determine the extent of groundwater contamination as part of an RI/FS scheduled for completion by September 1990.

The Monroe Auto Equipment site was proposed for addition to the NPL on September 5, 1985. This site is a manufacturing plant that covers approximately 26.3 acres in Cozad, Nebraska. Groundwater at the site has been contaminated by synthetic organic compounds and acetone. This contamination has been detected in a well system that serves 4,400 people. To date, no additional significant action has been conducted by EPA.

The Nebraska Army Ordnance Plant was proposed for addition to the NPL on October 26, 1989. The former Nebraska Ordnance Plant is being investigated by the USACE as part of the Defense Environmental Restoration Program. The site, however, is not currently owned by the Federal government. Included in the USACE investigation are the current university property, the bomb booster assembly area, burning ground/sewage treatment area, and ammonium nitrate plant. In a study completed in April 1989, the USACE identified areas of soil contaminated by numerous hazardous materials and munitions wastes. The USACE is conducting an RI/FS to determine the type and extent of contamination in all known areas of contamination. The RI/FS is scheduled to begin in mid-1990 and end in 1992, at which time a Record of Decision (ROD) will be signed.

The Phillips Chemical Co-Hoag Plant site was proposed for addition to the NPL on December 30, 1982. EPA has had little involvement in this site since it falls within RCRA jurisdiction. After the original owner operator, Phillips Chemical, went bankrupt, Phillips Petroleum fulfilled the obligation for on-site monitoring and oversight of the pump and treatment of nitrates and other contaminates in the groundwater. The State is overseeing response actions.

Waverly Groundwater Contamination was finalized on the NPL on June 10, 1986. City Wells #1 and #3 of Waverly, Nebraska have been found to be contaminated by carbon tetrachloride, chloroform, and dichloroethane. The city has discontinued use of the contaminated wells and drilled Well #4 to replace Well #1. An Expedited Response Action (ERA) was initiated in 1987 to address problems at the site. EPA began an active gas extraction system to remove contaminants from the soil, and installed a groundwater treatment system. EPA monitored the air pollution from the soil vacuuming and groundwater air-stripping. In June 1988, the ERA concluded and the responsible party (RP) took over the operation of the groundwater remedy. As of June 1988, emissions of carbon tetrachloride and chloroform were half the expected levels. A ROD is expected be signed late in 1990 describing the remedy proposed for this site. The RA is expected to be completed in 1994. The 10th Street Site was proposed for addition to the NPL on October 26, 1989. The site consists of four contaminated municipal water supply wells and two areas of soil contamination in Columbus, Nebraska. Trichloroethylene and tetrachloroethylene have been detected at the wells. A soil-gas survey delineated a groundwater plume with a point source located in a city parking lot. Potential sources of the contamination are a dry cleaning facility and a laundromat. An air survey was conducted in March 1989. EPA is drafting the workplan for the RI/FS. The RI/FS is scheduled to begin by June 1990 and be completed late in 1992, at which time a ROD will be signed.

SENATOR KERREY: Please provide me with a more complete assessment of EPA's role in the Hastings Superfund Site.

ANSWER: EPA is the lead Agency for remediation of the Hastings Groundwater Contamination site located in Hastings, Nebraska. The Nebraska Department of Health (NDOH) and the Nebraska Department of Environmental Control (NDEC) have and will continue to participate and contribute to investigations and remedial activities at the site. Also, EPA is working closely with the city of Hastings to preserve the high quality of its drinking water.

In 1983, a city water well was taken out of service due to taste and odor complaints. As a result, the NDEC, NDOH, and EPA began investigating groundwater contamination in the area and the site was placed on the National Priorities List (NPL) in 1986.

Since 1983, public water supply wells were taken out of service and replaced with wells free of contamination. Multiple sources of contamination to the groundwater within the Hastings site include a number of former businesses that operated in the central industrial area; two landfills that are now closed; the Hastings East Industrial Park; and the former Naval Ammunition Depot (NAD). The groundwater is primarily contaminated with volatile organic compounds (VOCs), and this contamination is attributed to the use and disposal of industrial solvents and commercial fumigants, coal tar wastes, and the manufacturing of explosives.

Because of the extent of the contamination found at the site, the area has been divided into the following sub-sites: Colorado Avenue; FAR-MAR-CO; Well #3; Second Street; North Landfill; South Landfill; Hastings East; the Former Naval Ammunition Depot (NAD), and TCA Contamination. Each Hastings sub-site consists of source areas of contamination and a plume of groundwater contamination containing volatile organics. Within each sub-site, source areas and groundwater contamination may be addressed as separate operable units. Due to the size of the site, criteria for establishing priorities for remedial actions (RA), were developed to ensure that the most serious human health and environmental concerns are addressed first. A total of 15 operable units were identified and ranked by priority.

Records of Decisions (ROD) for source control remedies were signed in 1988 for the Colorado Avenue and FAR-MAR-CO sub-sites, and in 1989 for the Well #3 sub-site. The cleanup alternative selected for source control at all three of these sites is Soil Vapor Extraction (SVE), with air emission controls. The SVE systems will be designed to remove volatiles found in contaminated soils and to control the migration of contamination from the soils to the groundwater. For the Colorado Avenue sub-site, a pilot study for the SVE system was performed by the potentially responsible parties (PRPs). For the Colorado Avenue, FAR-MAR-CO, and Well Number 3 sub-sites, EPA expects the remedial design and remedial action (RD/RA) phase for the SVE systems to begin in 1990. For the Colorado Avenue RD/RA, special notice has been issued to the PRPs to do the work. For the FAR-MAR-CO RD/RA, EPA is discussing the work with the PRPs. For the Well#3 sub-site, the RD/RA will be a fund-lead response by EPA; a State Superfund Contract is needed before the RA can proceed.

At the TCA contamination sub-site, a 1989 soils removal action was conducted by the PRPs. The PRPs, under the terms of an Administrative Order on consent signed in 1989, are monitoring the groundwater to determine the thoroughness of the removal action.

In September 1989, EPA and the city of Hastings entered into an Administrative Order on Consent and the remedial investigation/Feasibility Study (RI/FS) is nearing completion on the North Landfill sub-site. EPA expects the RI/FS report to be available in 1991 and a ROD for source control is planned for 1991.

The Army Corps of Engineers, acting on behalf of the Department of Defense, is currently performing the RI/FS at the former NAD sub-site. Results of the RI were completed in December 1988 and confirmed that explosives, heavy metals, and VOCs are the major contaminants at the site. The ROD to address source control is scheduled for 1990.

Only limited source characterization has been conducted by EPA at the Second Street and South Landfill sub-sites. For Second Street, the RI/FS for source control is planned for 1991 and the RD/RA is planned for 1993. For the South Landfill sub-site the RI/FS is planned for 1992 and the RD/RA is planned for 1994.

Groundwater contamination for all sub-sites will be addressed separately from source control actions. EPA has entered into an Interagency Agreement with the U.S. Geological Survey to conduct groundwater modeling studies and to assist in the development of a strategy for addressing site-wide groundwater plume management and restoration. In 1990, an RI/FS will be conducted to address groundwater contamination at the Well#3, Colorado Avenue, FAR-MAR-CO, North Landfill, and Former NAD sub-sites. RODs are planned for 1991 and RD/RAs in 1991 or 1992. For the FAR-MAR-CO and Well#3 sub-sites, the groundwater RI/FSs will be Superfund financed actions. For the other sub-sites, groundwater contamination will be addressed in 1993 or later.

SOLID WASTE REGULATIONS

SENATOR KERREY: When does EPA plan to issue its regulations on solid waste disposal?

ANSWER: EPA expects to promulgate the final Subtitle D Solid Waste Disposal Criteria in 1990.

SENATOR KERREY: I would appreciate knowing what measures the EPA plans to undertake in order to assist small rural communities in complying with the new regulations.

ANSWER: The Agency received numerous comments from small towns and communities expressing concerns over the economic impact of EPA's proposed solid waste criteria. We recognize that many small communities have limited financial and technical resources, making it difficult for them to deal with complex regulations effectively. We are carefully considering the capability (both technical and financial) of these small communities as we develop a final rule that ensures protection of human health and the environment in all communities.

With regard to providing assistance to communities in implementing the Criteria, the Agency is planning to conduct technical training for states and the regulated community on implementation of the new Criteria. The Agency will also be working closely with the states to encourage them to provide assistance programs for their communities.

SENATOR KERREY: Has EPA analyzed the approximate costs to small rural communities of these new proposed regulations?

ANSWER: The cost impacts of the proposed rule have been analyzed. The results of this analysis are summarized in the August 1988 Federal Register (see p. 33334 - 33390). EPA is currently evaluating options for the final rule for addressing the concerns expressed by small, rural communities. As part of this analysis, we are also determining the cost impacts of the various options. The results of this analysis will be published along with the final rule.

LUST REGULATIONS

SENATOR KERREY: I would appreciate an overview of EPA's implementation of the LUST regulations. Specifically, how many states have adopted trust funds? How many of those funds have been approved? And when does EPA expect to have reviewed and commented on state trust funds applications that are currently pending?

ANSWER: Thirty four (34) states have passed some type of underground storage tank assurance legislation. Seven of the thirty-four have received approvals, including Mississippi, Georgia, Alabama, Iowa, Illinois, Louisiana, and Vermont. Eighteen additional decisions are pending, and we expect the majority of these to receive approvals once outstanding issues are resolved over the next few months. For purposes of enforcement, the Agency deems these pending state funds as "approved".

SENATOR KERREY: Further, I would appreciate knowing what the Agency has learned about the current availability of private insurance and approximate cost per tank?

ANSWER: Currently, there are at least 14 insurance carriers writing coverage for underground storage tanks, up significantly from the 2 or 3 in the market a few years ago. However, this is a dynamic market with companies entering and leaving the market monthly. The availability of insurance may decrease somewhat where state assurance funds provide broad coverage, but it may increase elsewhere. The most significant stumbling block is that many insurers require tank testing, site assessments, or upgrades sooner than prescribed by our technical standards. If owners cannot afford to meet these requirements, or if they discover that their site is already contaminated, they cannot obtain insurance.

Information collected by the Agency from the UST insurance industry indicates that UST insurance premiums range from $750 - $1,200 per tank.

WETLANDS POLICY

SENATOR KERREY: The President has committed himself to "no net loss" policy regarding wetlands. Earlier this year there was discussion about a memorandum of understanding between EPA and the US Army Corps of Engineers. Could you explain how the final document differs from the original agreement between the two agencies. Further could you explain what you see as the major components of the "no net loss" policy.

ANSWER: After signing the EPA/Army Section 404 Mitigation Memorandum of Agreement (MOA) on November 15, 1989, EPA conducted discussions with interested Federal agencies regarding the MOA. As a result of those discussions, we modified the document to clarify our intent regarding its scope and effect. While we felt the original agreement satisfactorily outlined the procedures for field personnel, we were willing to modify and clarify the language to address the concerns of the other Federal agencies. The changes do not alter the agreement's basic procedural guidance, and were made to more clearly reflect requirements in the Clean Water Act Section 404(b)(1) Guidelines. The modified version of the MOA was signed on February 6, 1990, and became effective on February 7, 1990.

Recommendations for the major components of the "no net loss" policy will emerge later this year from the Domestic Policy Council's Task Force on Wetlands. In EPA's view, some of the components that warrant careful consideration by the Task Force include:

- implementing "no net loss" in a manner that enables us to readily measure progress towards the goal;
- establishing sound and uniform wetlands mitigation policy across the federal government;
- emphasizing the importance of addressing losses that continue as a result of past activities and from forces such as subsidence and sea level rise;
- improving wetlands science for better decisionmaking;
- considering wetlands within the context of their place in the landscape, including the functional relationships with adjacent uplands and open waters;
- encouraging wetland restoration outside of regulatory programs, especially in areas of the country where extremely high percentages of wetlands have been lost; and
- assigning accountability for ensuring progress towards the goal and responsibility for tracking that progress.

SENATOR KERREY: Does EPA have any responsibility for wetlands activities which come under the jurisdiction of other departments and agencies?

ANSWER: If the activities of another agency involve discharges of dredged or fill material into waters of the United States, EPA's role under Section 404 is similar to that when non-federal activities are involved. EPA is also charged with review and comment on National Environmental Policy Act documents prepared by other federal agencies, and these often involve impacts to wetlands. In addition to executing these mandated responsibilities, EPA also works cooperatively with other federal agencies in a number of ways to improve protection of wetlands. We are a member of the Interagency Floodplain Management Task Force, and are seeking through this group to improve protection of the natural values of floodplains, where many of the nation's wetlands are found. We have been working closely with the Department of Agriculture to promote consistency in the implementation of wetland requirements of the Farm Security Act and the Clean Water Act, and to identify ways federal agricultural policy can advance the cause of wetlands protection. Another area of activity is providing assistance to federal land management agencies on ways to improve the environmental stewardship of wetlands that are in federal ownership. EPA also works with other federal agencies as a member of the Domestic Policy Council Task Force established by President Bush to implement his goal of "no net loss" of wetlands.

SENATOR KERREY: To what extent can and will the policy have any retroactive application? I ask because we have a flood control project along the Missouri. A mitigation package was approved years after the channelization had occurred. We did get a small budget request this year -- $420,000 on a $50-million plus project -- but it has been a long, hard struggle to get this funding started.

ANSWER: The EPA/Army Section 404 Mitigation Memorandum of Agreement (MOA) applies explicitly to those completed standard Section 404 permit applications which were received on or after February 7, 1990. Projects for which completed Section 404 permit applications were received before February 7, 1990, or for which Section 404 permits have already been issued, are not subject to the MOA. Therefore, we do not anticipate that the MOA will affect previous mitigation agreements associated with projects that were completed before February 7, 1990.

CLEAN LAKES

SENATOR KERREY: There is no request for the Clean Lakes program in fiscal 1991. What is the justification for this?

ANSWER: There is no request for the Clean Lakes program in fiscal 1991 because EPA believes that the States are now able to address lake restoration needs, along with other local priorities, under their existing water quality management programs.

In past years, the Agency has developed and demonstrated lake restoration techniques and assisted States in classifying lakes, identifying techniques for restoring the levels of water quality needed to maintain or enhance uses, and implemented cleanup and control projects. Because the Agency has provided guidance to the States on maintaining clean lakes, it believes that the States are now able to address lake restoration needs, along with other local priorities, under their existing water quality management programs.

SENATOR KERREY: How many applications did you have for this program in fiscal 1989, what was the total requested amount of the applications, how many of the applications did you fund? In fiscal 1990?

ANSWER: In FY 1989, EPA received 128 applications, with the total amount requested $15,104,495. We funded 98 applications, totalling $9,124,413. We expected to receive the FY 1990 applications by the end of March 1990.

SENATOR KERREY: Are the regional offices discouraging applications under this program?

ANSWER: Regional offices solicit grant applications only if funds have been appropriated - they do not discourage applications.

SENATOR KERREY: Did EPA make a request to OMB to fund this program in fiscal 1991?

ANSWER: No Clean Lakes funds were requested in the Agency's FY 1991 OMB request.

NRD RESPONSIBILITIES/LIABILITY UNDER CERCLA

SENATOR KERREY: The Papio-Missouri River Natural Resources District is the intended local sponsor of a Corps of Engineers project known as the Big Papillion Creek Channel Improvement Project. The City of Omaha and the Nebraska Natural Resources Commission (state) have agreed to assist the NRD in paying the cost of local sponsorship.

The NRD is to acquire all the land for the project, finance 25% of construction costs, and maintain the project once it is complete. A local cooperation agreement (LCA) had been approved but not signed when the Corps proposed an amendment to the LCA. That amendment would make the NRD liable for at least 25% of the cost of "environmental investigations" to discover if any hazardous substances regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) can be identified on the lands to be acquired for the project. Secondly, the draft amendment would require that the NRD pay 100% of the costs of remedial investigations and feasibility studies and clean-up and response costs relating to any such hazardous substances found at any stage of the project.

CERCLA (42 U.S.C. 9601 (35) (A)) appears to provide that, if a property in, on or at which hazardous substances were previously disposed of is acquired by a government entity "through the exercise of eminent domain authority by purchase or condemnation", that entity is not liable as an owner for response costs arising by virtue of the presence of those hazardous materials in, on or at the property if the entity can establish by preponderance of the evidence that

"(a) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances, and (b) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions."

Is the above a proper interpretation of the law? Please explain your answer.

ANSWER: Your paraphrase of this statutory language leaves out a critical factor. Under Section 107(b)(3) of the statute, a release must be caused solely by an act or omission of a third party other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship. Other than this omission, the interpretation appears correct.

SENATOR KERREY: Would the proposed amendment create for the NRD a liability beyond that which it has under CERCLA?

ANSWER: The Agency may not have all the facts of this situation necessary to respond to this question. If NRD meets the criteria for an innocent landowner under CERCLA Sections 107(b)(3) and 101(35), NRD would not be responsible for payment of any study or response costs under CERCLA. The amendment under this scenario, therefore, could create a contractual responsibility which goes beyond CERCLA liability. However, it is not clear that NRD would be an innocent landowner from the facts given.

SENATOR KERREY: Without the amendment, would the government be responsible for cleaning up a hazardous site using the Superfund and then seeking reimbursement from the parties responsible for the spilling or dumping of the hazardous waste?

ANSWER: Again, the Agency does not have all the facts necessary to respond definitively to this question. If this site became listed on the National Priorities List, or met the criteria for a removal action under CERCLA, the government has the authority to clean up the site and then seek reimbursement from the responsible parties. The amendment would not affect the government's authorities under CERCLA.

SENATOR KERREY: Are there similar circumstances/local projects where the Superfund has been called upon to finance such clean-ups?

ANSWER: The Agency is unaware of any such projects.

SENATOR KERREY: Are there precedents for a Federal agency imposing upon a local entity liability for hazardous waste beyond that established under CERCLA?

ANSWER: Although the Agency is not aware of such precedents under CERCLA, it is possible that through contractual agreements local entities have agreed to do more than is required under CERCLA.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

LUST REGULATIONS

SENATOR GRASSLEY: Last years's Appropriations Bill directed the EPA to help states develop financial assurance mechanisms to help small businesses meet the requirements of the Leaking Underground Storage Tank regulations. I am still receiving complaints from my state regarding the cost and availability of underground tank insurance.

What has the Agency done to mitigate these problems? What is proposed within your FY 1991 Budget to address this need?

ANSWER: For small businesses, including those in rural areas, insurance may seem especially costly. However, given that 15 percent of the tanks in this country may be leaking, and that corrective action and third party liability costs average between $75,000 and $300,000, obtaining insurance will frequently be less expensive than paying for corrective action and third party damages caused by releases from underground storage tanks. All tank owners, including small businesses, are liable for these costs.

Because insurance is costly for some small businesses, we have encouraged the development of state funds to assist these owners and operators by providing a less expensive way to comply with the financial responsibility regulations. In September 1988, EPA published Financial Assurance Programs: A Handbook for States, which is designed to assist States in developing financial assurance programs for USTs. The Agency has provided expertise to individual States in developing their fund legislation. In September 1988, EPA released guidance on its criteria for approving State funds as financial assurance mechanisms.

To date, the Agency has approved seven state assurance funds including Mississippi, Louisiana, Alabama, Georgia, Illinois, Iowa, and Vermont. Eighteen additional decisions are currently pending, and EPA is working actively with the states to resolve any outstanding issues. In addition, in November 1989, as a part of EPA's national conference for State UST regulators, the Agency conducted an information session and panel discussion on issues and options for state fund administration. EPA will continue to offer this type of assistance.

On March 14, 1990, the Agency decided to extend the financial responsibility compliance dates by one year for both the third and fourth compliance groups. (Please see attached Financial Responsibility Update). Owners and operators who had to comply on April 26, 1990, now have until April 26, 1991. Owners and operators who had to comply on October 26, 1990, now have until October 26, 1991. These extensions will provide more time for state funds to be approved, and will allow owners to complete any tank system upgrades necessary to obtain insurance.

EPA

UPDATE:

Underground Storage Tank Financial Responsibility

Financial Responsibility Compliance Dates

Subtitle I of the Resource Conservation and Recovery Act requires owners and operators of underground storage tanks (USTs) to meet certain financial responsibility requirements for cleanup and third-party damages resulting from leaks that may occur. EPA phased in the financial responsibility requirements for USTs over a two-year period because of concerns about the unavailability of financial assurance mechanisms to large portions of the regulated community. The phase-in was designed to achieve the maximum balance between the need to ensure financial capability for UST releases and the necessary time for owners and operators to obtain assurance mechanisms.

Petroleum marketers owning 1000 or more USTs and non-marketers with more than $20 million in tangible net worth were required to comply in January 1989. Petroleum marketers owning between 100 and 999 USTs were required to comply in October 1989.

Extension of Compliance Dates for Some UST Owners

The Agency has decided to extend the compliance dates of the two remaining groups: petroleum marketers owning between 13 and 99 USTs who were required to comply April 26, 1990, and all other owners, including local governments, who were required to comply October 26, 1990.

The Agency will publish rules to extend these groups' compliance dates for one year each. Those owners and operators who had to comply by April 26, 1990, now have until April 26, 1991. Those owners and operators who had to comply by October 26, 1990, now have to comply by October 26, 1991.

Objectives of EPA

The Agency believes that extending the financial responsibility compliance dates will not adversely affect human health and the environment, as the technical requirements for USTs will remain in effect. These requirements include leak detection, tank upgrading and corrective action.

MARCH 14, 1990

United States Environmental Protection Agency, Office of Solid Waste & Emergency Response,
Office of Underground Storage Tanks
Washington, D.C. 20460

GROUNDWATER RESEARCH

SENATOR GRASSLEY: The State of Iowa has taken a leading role in creating a groundwater prevention program unlike any other in the nation. One problem facing states, businesses, and agricultural producers, however, is the bureaucratic mesh of agencies responsible for groundwater protection.

I recently co-sponsored legislation to coordinate the groundwater research effort within the Department of Agriculture. Last year, this Committee provided the Office of Pesticide Programs with $1 million to coordinate our research efforts between the EPA and the USDA.

Could you elaborate on this effort?

ANSWER: The Senate Report for the 1990 Appropriations Bill directed "that up to $1,000,000 of the [Salaries and Expenses] funds provided for the Office of Pesticide Programs shall be used to establish an advisory group with the U. S. Department of Agriculture (USDA) for planning and directing research, development, and transfer of alternative, biologically based crop production systems. Such alternatives are to include microbial pesticides, bioengineered crops, pheromones, and other insect behavior modifying biochemicals, predators, and parasites, as well as improved cultural practices. The Committee recommends that the advisory group be composed of scientists, farmers, food processors, health officials, and nonprofit organizations to identify pesticide uses for which alternatives are critically needed."

EPA is undertaking a number of activities to implement this directive. Initial contact with USDA has been made, and the following proposals are currently under discussion:

Two workshops are being discussed. The first will deal with Integrated Pest Management (IPM) in the agricultural sector, and the second with IPM in the non-farming sectors.

The first workshop will bring together key individuals from the federal level, including EPA, USDA, and FDA; representatives from the States, academia, agriculture, and industry; and environmental and consumer groups. This workshop will consider the roles of and coordination between each of these groups, and identify barriers to timely development and transfer to users of biologically based IPM technologies. Upon completion of the workshop, USDA and EPA will develop a report summarizing the results of the workshop.

A similar program is planned for the workshop on IPM in the non-farming sectors. A report of the results of this workshop is also planned. Other activities are also in the planning stage.

The $1.0 million provided for groundwater research efforts in the Office of Pesticide Programs (OPP) was not an augmentation to the Agency's budget, rather an earmarking of OPP's budget in the Salaries and Expenses appropriation. OPP also incurred a $1 million reduction in its FY 90 Salaries and Expenses funds due to the Gramm-Rudman sequestration and Section 517 across-the-board reduction. The reduction in extramural funds was also done. This situation has had some impact on the Agency's support for the USDA coordination effort.

SENATOR GRASSLEY: Did the Agency request funding for this purpose in this year's budget?

ANSWER: No additional funds for IPM have been requested in the FY 1991 Budget. We will continue the types of activities described in the previous response, and expand IPM activities as resources permit.

SENIOR ENVIRONMENTAL EMPLOYMENT PROGRAM

SENATOR GRASSLEY: I have been a proponent of the Senior Environmental Employment Program. How is the program working?

ANSWER: It is working very well. During the asbestos-in-schools crisis, we were able to call upon many senior citizens with the technical expertise that was required to correctly evaluate and inventory the scope of the problem. That was a few years ago. Everyone was so happy with the results of their contribution that when new areas of concern came up, we naturally turned to the senior citizens again.

We have seen, firsthand, that it is a very effective use of one of America's growing natural resources --- namely, people with a combination of technical and practical experience. We believe that this program works well because it can quickly provide qualified, temporary help on an as needed basis. By using people who are not interested in permanent, full-time commitments, we are providing EPA management with a new kind of flexibility which other Federal agencies do not now have.

SUBSTITUTES FOR LEAD

SENATOR GRASSLEY: You sent me a letter recently, relative to the Clean Air Act, responding to my questions regarding the use of leaded gasoline. You indicated that a Committee of industry and government were working to develop substitutes which could replace lead when it became unavailable in the market place. Could you share with this Committee how the work of the Recession Committee is progressing?

ANSWER: Over a three-year period, the Environmental Protection Agency (EPA) and the United States Department of Agriculture (USDA) conducted an extensive study examining the need for leaded fuel usage in older engines and the potential of substitute additives to reduce valve recession. Two non-lead based fuel additives appeared effective in combatting the problem of valve recession, and subsequent recommendations were issued to owners of engines at risk.

After the completion of this original, EPA/USDA collaborative effort, the Valve-seat Recession Committee was formed to develop and provide further direction in this area. Among its tasks, the committee includes the development of a shorter test procedure to be used as a baseline for additive manufacturers who wish to further test their products for the ability to provide protection against valve-seat recession and possible combustion chamber deposits. A draft committee report has been prepared and will be distributed to the committee members for review in the near future.

SENATOR GRASSLEY: How soon can we expect to see lead substitutes which don't cause severe engine damage?

ANSWER: Three prominent additives, and several less prominent ones, have been on the market for several years. EPA's Office of Mobile Sources (OMS) tested two of the prominent additives in 1987 and found that while they did reduce valve recession when used at the manufacturers' recommended gasoline-to-additive ratios, they did not prove quite as effective as regular, leaded fuel. In one instance, however, we increased the additive concentration and succeeded in eliminating the valve recession problem. The manufacturers of the two prominent additives which we tested -- Dupont and Lubrizol -- claim to be having good success in the field.

SENATOR GRASSLEY: Are current funds adequate to ensure development of these substitutes before the deadlines proposed under the Clean Air Amendments the Senate is currently debating?

ANSWER: The Agency's role in the area of valve-protection additives is purely evaluative; EPA, therefore, is not using funds to develop lead-substitute or other fuel additives. Resources for the development of valve-protection additives have been provided by the manufacturers. Industry and the public appear comfortable with the selection of additives currently available, and we are not aware of any new additives under development.

INERT INGREDIENTS IN PESTICIDES

SENATOR GRASSLEY: There is another issue that I may be asking the Committee to review later this year. The issue is the toxicity of inert ingredients in pesticides. What is the Agency doing to review the pesticides on the market today to ensure that ingredients labeled as inert are not actually harmful?

ANSWER: We are examining the chemicals used as inert ingredients to identify those which may have adverse effects. For many of the inerts, we will need to require development of testing data which can then be used to identify adverse effects.

In 1987, the Agency published and began to implement its Inerts Strategy, a policy statement announcing that we would require certain test data on all new inerts and explaining how we prioritized existing inerts for examination. All existing inerts were classified into one of four lists, according to available information. List 1 (about 56 chemicals) consists of inerts with known toxic effects -- carcinogenicity, reproductive effects, chronic effects or ecological and environmental effects. List 2 (about 75 chemicals) contains inerts with a high priority for testing -- considered potentially toxic but lacking definitive data. List 3 (about 800 chemicals) consists of chemicals of unknown toxicity -- either no data exist or existing data have not been evaluated yet. List 4 (about 250 chemicals) includes inerts which are innocuous or generally recognized as safe, and new inerts where sufficient information is available to conclude that no adverse effects are expected. Chemicals having adverse effects will no longer be accepted as new inerts.

During the three years since the Inerts Strategy was published, we have found that twenty-two of the List 1 chemicals are not now used as inerts, and another twenty of the List 1 chemicals have been eliminated by aggressive Agency action under section 3(c)(2)(b) of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) to encourage reformulation or voluntary cancellation of the affected products. Use of another thirteen of the List 1 chemicals has been greatly reduced as a result of the same action, with only sixty-six products continuing to contain the chemicals pending data development, resolution of data waiver requests or time extensions granted to allow necessary testing on the reformulated products. Where appropriate, tolerance exemptions for List 1 chemicals will be revoked.

The remaining List 1 chemical was joined by two others, promoted in 1989. One of these has been virtually eliminated also. The two others will be dealt with as soon as several chemicals having identical uses are promoted -- the promotion process is underway now. We have delayed action on these two chemicals to avoid repetitive reformulations by registrants and duplicative labor by the Agency.

For List 2 chemicals, data in the public literature have been examined, and we have tentatively concluded that eight of the List 2 chemicals are candidates for promotion to List 1. The Agency will then take action as for the original List 1 chemicals.

Office of Pesticide Programs' management is considering when and how to conduct a systematic examination of the eight hundred List 3 chemicals, and whether this can reasonably be accomplished by the conclusion of the FIFRA 88 reregistration process. The final goal of this massive project would be to obtain and evaluate sufficient data on each chemical to conclude that adverse effects are not likely to occur, or else that the chemical should be promoted to List 1.

Additionally, we wish to point out that each pesticide product continues to have a required battery of tests to ensure that users are protected from harmful acute affects by proper precautionary labeling of the product.

ALTERNATIVE FORMULATIONS POLICY

SENATOR GRASSLEY: Along these lines, are revisions needed in the Alternative Formulations Policy initially adopted in the 1970s?

ANSWER: The Office of Pesticides Program, Registration Division, initiated a work group to address and resolve issues concerning the Alternate Formulation Policy in September 1989.

The Alternate Formulation Policy was developed in 1974 as an emergency measure designed to ease the economic hardships created by the oil shortages of the early seventies. Because many inert ingredients are petroleum derived compounds, the policy allows registrants to alternate the inert ingredients used in the production of pesticides. When the amount of crude oil was reduced, the availability of the inert ingredients dropped, causing difficulties for producers requiring these compounds to make their pesticide products. The Alternate Formulation Policy relaxed the Office of Pesticide Programs' one formulation per one registration stipulation in an effort to avoid the negative consequences that would have accompanied a pesticide shortage.

The policy outlines a set of conditions that all alternate formulations must meet to be acceptable to the agency. The requirements are as follows:

1. A request must be made for each specific product. (This must be accompanied by the appropriate application form listing each alternative formulation).

2. The changes in inert ingredients must not necessitate a change in the ingredients statement, the directions for use, or the precautionary statements on the label.

3. The changes in formulation must not adversely affect the efficacy or safety of the product, including the persistence of residues of the active ingredient(s).

4. In cases where the product is to be used on food or feed, all inert ingredients must be cleared under the Federal Food, Drug, and Cosmetic Act.

A revised draft of the Alternate Formulation Policy is under discussion. The revision proposes that the policy be revoked because of concerns about the efficacy of products. For certain types of products, such as antimicrobials, even minor changes may affect their efficacy and thus could cause significant public health problems. Since efficacy is a less critical issue with respect to agricultural pesticides, several additional options are being explored at this time as well as the impact of each option on the industry.

QUESTIONS SUBMITTED BY SENATOR BYRD

CANCER RESEARCH

SENATOR BYRD: Kanawha County Cancer Registry and the National Institute for Chemical Studies (NICS), Charleston, West Virginia.

Last year, I expressed my serious concern about the incidence of cancer in the Kanawha Valley area of West Virginia which has one of the greatest concentrations of chemical industry in the United States. I also described the existence of a 37-year Cancer Registry at the Charleston Area Medical Center (CAMC). The data reflects 97 percent to 99 percent of all cancers diagnosed in Kanawha Valley. The National Institute for Chemical Studies (NICS), which received its final phase of EPA funding in FY 1989, feels that an epidemiologic analysis of the data contained in this registry could help define the cause and effect relationship between cancer incidence and geographic proximity to the chemical industry. An amount of $55,000 is needed to complete an analysis of this registry, including the services of an epidemiologist and data processing support.

You indicated after last year's hearing, that the EPA concurred that an additional investment of $55,000 would be warranted in Fiscal Year 1990 to complete the analysis of the 37-year Charleston Area Medical Center Cancer Registry, and that it would include it in its research plan for the next fiscal year.

I have recently been advised that funds have been identified by EPA for this project and that agreement has been reached within the Agency to fund it during this fiscal year. I further understand that EPA has been working with the NICS in developing an application for the study to be undertaken by the Institute.

This appears to be a very meritorious project and I consider it to be a priority matter. Please provide for the record the current status of this application, the expected date of the grant award to NICS, and the anticipated dates for completion of the final analysis of the 37-year cancer registry.

ANSWER: The NICS application for this project has been received and the funding package has been prepared. We expect the grant award to NICS to occur in April 1990. Finally, the project plan calls for completing the analysis of the 37-year cancer registry data by March 31, 1991.

RURAL WATER TECHNICAL ASSISTANCE PROGRAM

SENATOR BYRD: Last year, the Committee provided an additional $3,500,000 for drinking water training and technical assistance under Abatement, Control and Compliance, for a total funding level of $4,500,000. The increase was intended to fund the Rural Water Association at $3,300,000, the Rural Community Assistance Program at $400,000, and to add $800,000 for integrated compliance strategies by providing technical assistance and training to problem facilities through State 109(b) environmental training centers.

For the record, please provide your spending plans for these funds broken out by types of training and technical assistance provided, those funds which are being provided for the National Rural Water Associations, and Rural Community Action projects. Also, please provide a breakdown of such projects for West Virginia.

ANSWER: The National Rural Water Association (NRWA) will receive $3,212,500 in grant support to provide training and technical assistance to rural and small water systems nationwide. Through NRWA personnel, quality training and one-on-one technical assistance is provided to rural and small water systems on operations, maintenance, finance, management, regulatory requirements and health concerns.

Funding of $391,000 to the Rural Community Assistance Program (RCAPs) will be used to assist small public water systems to improve their management capabilities, long term planning, rate structures and financial management. The RCAPs will pursue such projects as documenting the effectiveness of technical assistance; providing community-to-community assistance; developing training materials relating to problem solving and technical aspects of water supply treatment; conducting demonstration projects for innovative uses of point of entry devises; and system consolidation.

Of the remaining funds, $385,300 will be provided through the National Environmental Training Association to state training centers to develop training modules to comprise a total training curriculum for state and local health officials. The objective of the training curriculum is to provide these officials with a thorough understanding of the federal drinking water program so that they may effectively serve system owners, operators and consumers.

The remaining $385,300 will be used to fund grants to five states to develop State Compliance Assurance Plans. These plans are designed to assure compliance to the extent possible by forming action-oriented partnerships with organizations such as the state section of the American Water Works Association, the State Rural Water Association, the local Rural Community Assistance Program, the Public Utilities Commission, the Cooperative Extension Service, Counties, Towns and Townships, local chapters of the National Environmental Health Association, and many others. These plans will address development and delivery of training and technical assistance, state drinking water program capacity and institutional issues, enforcement and public education. Through these plans, EPA, the states and drinking water organizations will build partnerships to leverage resources to assure maximum compliance with the Safe Drinking Water Act requirements.

All of the above figures reflect the pro-rated reductions in the Appropriations from the 1990 Appropriation Act and the government-wide sequester enacted in the final continuing resolution.

EPA provides support for training and technical assistance to the Rural Water Association in West Virginia. The Rural Community Assistance Program, with limited funding, provides assistance to a few small communities in West Virginia that have drinking water systems out of compliance with federal standards. The program provides training and information transfer in order to permanently return these systems to compliance with federal standards.

SMALL FLOWS CLEARINGHOUSE

SENATOR BYRD: Last year, the Committee provided, at my request, $350,000 for the Small Flows Clearinghouse in Morgantown, West Virginia, to initiate the establishment of a training program to aid small rural communities to comply with EPA regulations concerning drinking water, wastewater, and solid waste disposal and to develop the capabilities for securing the necessary equipment and financing for the operation of waste and water systems.

For the record, please provide the status of this program including accomplishments to date and projected accomplishments for the coming year.

ANSWER: Obligation of the FY 1990 add-on for the Small Flows Clearinghouse will be accomplished after completion of a strategic plan, expected from the Clearinghouse in April 1990. The Strategic plan is intended to determine the direction the Clearinghouse will take to obtain self sufficiency once funds made available to the Clearinghouse from Title II of the Clean Water Act are phased out. Part of the direction for the Clearinghouse will be the development of training materials for small, rural community wastewater treatment plant operators and local officials. The add-on funds will be awarded to the Clearinghouse prior to the end of the current Federal Fiscal Year.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

NATIONAL ENVIRONMENTAL INSTITUTE

SENATOR HATFIELD: In the Statement of Managers accompanying the fiscal year 1990 conference report for the VA-HUD Independent Agencies Appropriations Bill (House Report 101-297), the conferees directed the EPA to seriously consider the establishment of a national environmental sciences institute through an open and fully competitive process. Please outline for the Subcommittee what steps have been taken by EPA to establish the institute.

ANSWER: EPA is developing proposals to enhance and sustain long-term research programs for ecological research. Accordingly we are making a priority this year of conducting extensive consultation with the broad scientific community on this topic. We also plan to sponsor public meetings in at least three geographic areas to ensure that all interested parties have the opportunity to express their views. This consultation process, taking place over the next several months, will serve to assist the Administration in making decisions on the purpose, goals, organization and structure for this type of external organization within EPA's long-term ecological research program.

SENATOR HATFIELD: Given EPA's renewed interest in long-term environmental research and development as exhibited by Mr. Reilly's statement before the Subcommittee and his FY 1991 budget request, would the creation of a national environmental sciences institute, as was recommended by the Research Strategies Committee on EPA's Science Advisory Board in September 1988, enhance EPA's long-term research capabilities?

ANSWER: Yes, however, the research institute is one of many possible institutional mechanisms that might enhance the long-term research efforts.

SENATOR HATFIELD: If a government owned and contractor operated National Ecological Sciences Institute were established which consisted of both a core research program conducted in-house and an extramural competitive research grant program that was responsive to EPA's ecological and statistical research needs, and which would address such matters as acid rain, global climate change, stratospheric ozone depletion, habitat destruction and release of genetically engineered microorganisms, with the specific research projects and themes identified and determined by a nationally recognized advisory committee and scientific advisory panels, would such an institute enhance EPA's long-term research capabilities?

ANSWER: Again, a research institute may be desirable, but other approaches may be equally effective or superior. Please note that we have already substantially enhanced our long-term research program and we are undertaking many activities mentioned in your request.

SENATOR HATFIELD: If resources were provided to EPA for the establishment of a national environmental sciences institute, would you intend to permit the Congress to comment on the criteria for its creation, and allow for a formal public comment process such as publication in the Federal Register?

ANSWER: Yes. We would welcome Congressional comments. Over the next few months EPA/ORD will conduct extensive consultations on the question of the desired objectives and structure of a long-term program of ecological research and the appropriate institutional relationships to sustain such a program. Consultation will include at least three public meetings, which will be widely advertised, will be convened across the country and will include discussions of selection criteria. The results of these discussions will be made available to all interested parties.

SENATOR HATFIELD: If resources were provided, and appropriate criteria were developed for the establishment of a national environmental sciences institute, can you give me your assurances that Oregon State University's proposal will receive EPA's full and fair consideration in a competitive process?

ANSWER: Yes.

SUBCOMMITTEE RECESS

Senator MIKULSKI. Well, thank you. This subcommittee stands in recess until March 21 at 2 p.m., when we'll take testimony from the National Institute of Building Sciences, the Selective Service, and the Neighborhood Reinvestment Corporation.

Mr. REILLY. Thank you, Madam Chair.

Senator MIKULSKI. Thank you.

[Whereupon, at 12:10 p.m., Thursday, March 8, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

WEDNESDAY, MARCH 21, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:10 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara Mikulski (chairman) presiding.

Present: Senators Mikulski, Garn, and Grassley.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STATEMENT OF WILLIAM KING, CHAIRMAN

ACCOMPANIED BY:
  DAVID HARRIS, PRESIDENT
  JOHN LLOYD, COMPTROLLER

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order today and will review the 1991 budget request for three of its independent agencies: the National Institute of Building Sciences, the Neighborhood Reinvestment Corporation, and the Selective Service System.

Our first witness is Mr. William King, Chairman of the National Institute of Building Sciences, or NIBS. NIBS was established by Congress in 1974 as a nonprofit, non-Government entity to serve as an authoritative national source on building science and technology.

As I said last year, I'm skeptical of providing continued direct appropriations, since it's not been reauthorized. In saying that, I'm not challenging the dedication and the accomplishments of the Institute. It's quite clear, however, that Congress intended that the Institute become self-sufficient relatively quickly, and we've gone beyond the sunset provision established by the authorizing committee. In fact, funding was provided last year, even though the authorization had lapsed. Although $5 million might be a small part of Federal spending, it's still a lot of money by people standards and we are under continued pressure to minimize Federal spending.

With that, we want to welcome Mr. King and his colleagues and welcome any testimony that he might have.

Mr. KING. Thank you, Madam Chair.

INTRODUCTION OF ASSOCIATES

With me today are David Harris, the President of the Institute, and John Lloyd, the Institute's Controller.

With your permission, I'd like to just spend a few minutes talking about the Institute, its background, what we do, and how we do it, and then ask David Harris to give you an update on our two most important current projects.

Senator MIKULSKI. Well, we'll be happy to hear that Mr. King. Know that we're going to operate on the 10-minute rule for testimony because of votes on the Clean Air Act, sir. So we limit the way you would like to present your testimony, but by unanimous consent, your entire statement will be in the record.

Mr. KING. Thank you.

We've tried to stay to that time schedule.

BACKGROUND

As you said in your opening remarks, the Institute was created by Congress. Some people have forgotten that that was a result of a series of congressional hearings which established the importance of the building industry to the national economy, and also identified numerous problems and shortcomings in how the construction industry functions.

The Institute was created to bring all of the disparate interests of those who design, construct, purchase, manage, operate, use, and regulate buildings, together to seek voluntary consensus solutions to the industry's problems, through the use of a process designed to serve the public interest. This was a worthy and difficult task 15 years ago when NIBS was created and it remains so today.

The Institute's principal links to the construction industry are its membership, its Consultative Council, and its Board of Directors. All of these elements are composed of representatives of the various segments of the industry who voluntarily give their expertise and thousands of hours of their time to various NIBS projects. The NIBS Consultative Council, the Board of Directors, and every project committee are also organized to ensure a balance of public and private interests.

PROJECT COMMITTEES

The major work of the Institute is done by project committees which are formed to seek consensus solution to industry problems and to develop guidelines, standards, and test methods. Suggestions for projects that NIBS should undertake come from the Congress, local, State, and Federal officials and agencies, members of academia, consumer organizations, members of the building industry, and the general public. All of these requests are carefully considered by the Institute, prioritized on the basis of need, interest, and availability of required funds. When a project is approved, notice is given to the entire industry and all interested parties are invited to participate as members of our project committee.

This public-private partnership approach has enabled the Institute to increase its effectiveness year after year, as more members of the building industry become convinced that consensus solutions to common problems which serve the public interest are also good for their private interests.

In summary, NIBS' past performance has proven that the approach which was envisioned by the Congress when the Institute was created can serve the public interest by helping to provide for buildings which are lower in cost, more efficient, and safer to use.

On behalf of the Board of Directors, I would like to thank you and the members of the subcommittee for your past support and to ask, even considering your earlier remarks, for a continuation of that support in the future. Although the $500,000 which NIBS will receive this year from the Congress is less than 15 percent of our current operating budget of $3.3 million, the Board of Directors believes this support is extremely important to our continued future, for the following reasons:

BENEFITS OF CONGRESSIONAL FUNDING

These funds provide the resources needed to undertake important projects which we could not fund from other sources. It makes it possible for the Institute to maintain a minimal technical staff required to be able to answer the requests of the Congress and others in the industry.

It confirms to the building industry that the Congress supports the Institute's work, and it is very important to our ability to raise matching funds from the private parties that make up the rest of the industry.

Finally, and I think this may be even more important than any of the others, it ensures that no portion of the building industry can exert undue influence on the work of the Institute.

That's the end of my comments.

[The statement follows:]

STATEMENT OF WILLIAM KING

Madam Chair and members of the Subcommittee I am William King, chairman of the board of directors of the National Institute of Building Sciences (NIBS). With me today are Robert Gibson, the vice chairman, David Harris, the president; and John Lloyd, the controller.

We have delivered to the Subcommittee our financial statements for the year ended September 30, 1989, our FY-90 budget, and other financial information. We also have provided you with copies of our written testimony which covers in detail the projects and programs we conducted this past year and a Programs and Projects summary describing work recently completed and presently underway.

ABOUT THE INSTITUTE

In 1968 the President's Commission on Urban Problems recommended legislation authorizing the creation of the National Institute of Building Sciences (NIBS). The Commission recommended NIBS resolve national level concerns related to the regulation of building technology.

In Public Law 93-383, Section 809, Congress found that "the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provisions for use in federal, state and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment... (and) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the federal, state and local levels."

Clearly, the Congress of the United States handed NIBS an ample challenge. When it was incorporated in 1977, the Institute faced the challenge of bringing the many disparate sectors of the building community together to set to the task of rationalizing the building process. Many early participants were not certain what role NIBS would play and some took part to protect their interests. Then and today NIBS consensus process is constantly being tested. These trials have resulted in a stronger organizational structure, and today the Institute has become a more effective public/private partnership to resolve technical and regulatory problems.

The Institute's board of directors is a voluntary body provided for in the authorizing legislation to direct the Institute. For 1990, the board elected William B. King, director of government relations for Armstrong World Industries, to be chairman; Robert C. Gibson, P.E., immediate past president of the National Society of Professional Engineers, and chairman and chief executive officer of Clark, Nexsen, Owen, Barbieri, Gibson, P.C. in Norfolk, Va., to be vice chairman; Carol B. Meeks, Ph.D., associate professor in the College of Home Economics at the University of Georgia, to be secretary; and Robert W. Lisle, chairman of Farnham Corporation in Dallas, Texas, to be treasurer.

CONSULTATIVE COUNCIL

The Institute's principal link with the building community is NIBS' 36-member Consultative Council. The Council members are elected for three-year terms by the NIBS' membership-at-large. The membership of the Council is representative of the various interests of the building community through its 12 membership classifications. It is through the Council that balance and representation is established for NIBS' project committees and the consensus process is administered. The Council functions through a committee structure which includes a Steering, Operations, Planning, Annual Meeting, and Information Committees.

MEMBERSHIP

At the beginning of calendar year 1989, an improved membership categorization system and dues schedules were implemented. Membership in the Institute remains open to all interested parties as provided in the enabling legislation. The dues structure has been simplified to provide only two categories of individual member dues which are better aligned with the enabling legislation, one for those private sector and the other for public sector members. In addition, a sustaining organizational membership category program is included. Membership increased from 530 at the beginning of the calendar year 1989 to 655 as of October 1989.

CONGRESSIONAL FUNDING

A balanced funding program for the Institute is vital to assure no single group can dominate or hold undue influence over NIBS' work. This balance also assures the maintenance and free exchange of information and views between the private and public sectors. In recent years the Institute has effectively used federal funds to carry out needed programs and projects of benefit to the public. Last year the Congress appropriated $492,000 as direct support for NIBS to be provided in FY-1990 on a matching basis against NIBS' private income. The Institute plans to use those funds to defray the costs of the following programs:

* Developing, in conjunction with the Environmental Protection Agency, criteria with which to reduce radon levels in new housing;

* Developing guide specifications for the testing, abatement, clean-up, and disposal of lead-based paint in homes and buildings;

* Developing a long term agenda for continuing the improvement of the building regulatory and technological process;

* Developing a consensus based design guide on air infiltration and moisture transfer control for the General Services Administration;

* Conducting a study to compare the provisions of the Life Safety Code and the three model building codes, to determine the extent of substantive technical differences which may lead to duplication, overlap, and conflict in standards governing health care facilities;

* Adding new provisions on abatement of non-friable asbestos containing building materials to the Institute's Asbestos Abatement Guide Specifications;

* Host a round table to plan and coordinate appropriate national initiatives to insure the nation maintains a leadership role in the international community with respect to building and construction standards, product testing, and certification;

* Adding new features to NIBS' Construction Criteria Base; and

* Supporting the work of the Building Thermal Envelope Coordinating Council and the Wood Protection Council, independent councils operating under the NIBS' auspices.

It is recognized these programs are in several cases multi-year efforts. Additional funds will be needed to complete fixed term projects and to achieve meaningful benefit on ongoing programs. Continued partial support from the Congress to carry out these vital activities will assure needed progress and prove to the private sector that domestic needs occupy a proper place on the nation's list of priorities.

The Institute and its members appreciate the Congress' action to continue the matching fund program for 1990. Authorizing legislation by the Congress will help to provide a sound and equitable funding base to assure the Institute has the capacity to advise the Congress and federal agencies on critical matters of building science and technology in future years. This will allow NIBS to continue to bring the building regulatory and technological knowledge available in the public and private sectors to federal housing and construction programs. In order to justify this action, it is incumbent upon us to demonstrate the benefit to the public, of NIBS' programs.

Programs carried out through the Consultative Council during 1989 include:

ASBESTOS ABATEMENT IN BUILDINGS

The federal government has determined that asbestos particles when breathed into the human body over a period of time at certain minimum levels may cause various forms of cancer, it also emphasizes that asbestos-containing materials, in good condition and undisturbed, are not necessarily a health hazard. As a result the need for practical technical guidance on how to properly deal with potential health problems of asbestos-containing building materials has grown dramatically.

With a formidable amount of information concerning asbestos reaching the public, there was a clear need for authoritative useful technical information to help those in the housing and building industry objectively deal with the problem. NIBS' 1986 publication, Asbestos Abatement and Management in Buildings: Model Guide Specifications, is one of the most widely used technical documents on asbestos abatement and maintenance and repair in buildings. In addition to its use by designers, environmental consultants, building owners and others, it is also used as a textbook for training courses, the guide represent years of intensive work by a NIBS' members. More than 3,000 copies of the first edition were disseminated.

In 1988, the Institute published the second edition of the guide specifications to incorporate provisions resulting from new federal regulations and provisions for new products, equipment and procedures, and refinements in existing practices for asbestos abatement, maintenance and repair. Several thousand copies of this edition were also distributed.

During 1989, the Institute reconvened a project committee to develop new sections on abatement of non-friable asbestos-containing materials and improved guidance on coordinating technical project specifications with other contract requirements.

LEAD-BASED PAINT

Lead-based paint hazards in housing, first discovered nearly a century ago, but virtually unaddressed until recently, is thought to exist in about 42 million, roughly one-half, of the nation's homes. Although the U.S. government banned the use of lead in paints used for residential purposes in the 1970s, lead-based paint was almost exclusively used in American homes constructed prior to the early 1970s.

The health scientists agree that lead not only serves no known useful function in the human body, but can cause serious toxic effects. Those most at risk from the consequences of exposure to lead are infants and children under the age of seven, and women of child bearing age. Studies indicate that excessive levels of lead in the bloodstream can hamper a child's mental and physical development, resulting in such side effects as a lower intelligence quotient, slower physical reaction times, and a shortened attention span. In worst case scenarios, convulsions, comas and death have been known to occur. In middle aged males, recent studies have indicated an association between blood-lead levels and increased blood pressure. Between 1976 and 1980, more than 780,000 American preschool children had excessive levels of lead in their blood, according to the American Academy of Pediatrics.

Today, lead-containing paint, water, soil and dust are the major sources of lead contaminants. Typically, in a housing unit, the primary manner in which lead enters the human body is believed to be through dust particles containing lead which fall on window sills and throughout the house. The dust is then picked up on the fingers and ingested, especially by young children--those most at-risk.

Federal attention to this problem goes back to 1971, when Congress passed the Lead-Based Paint Poisoning Prevention Act (LBPPPA), thereby prohibiting the use of lead-based paint (LBP) in residential structures constructed or rehabilitated by the federal government or with federal assistance. Subsequent amendments to the LBPPPA directed the federal government to establish procedures to eliminate LBP poisoning in housing constructed before 1950, covered by mortgage insurance or housing assistance payments.

NIBS' effort began in mid-1987, when it convened a NIBS task force comprised of prominent professionals in this field to define the current issues and recommend appropriate action. The task force, during its August 1987 meeting, outlined a number of recommendations. One was a call for the development of technical guidelines for abating the LBP hazard.

In August of 1988, NIBS under contract to HUD began development of a set of technical guidelines for the testing, abatement, clean-up and disposal of LBP as the end product of an intensive six-month effort. These guidelines were developed by a NIBS project committee using NIBS' consensus process. NIBS' committee was comprised of some of the nation's leading experts on lead-based paint.

The 72-member project committee oversaw the production of a draft technical guide which identifies and prescribes current methods used to 1) test for lead in paint, 2) abate various types of LBP-containing surfaces and surface conditions, 3) protect workers and building residents, 4) clean-up lead-contaminated residue, and 5) properly dispose of resulting waste. In March 1989, the final 238-page document, entitled Lead-Based Paint Testing, Abatement, Cleanup and Disposal Guidelines, was submitted to HUD. HUD has requested the NIBS Guide not be made available to the public.

The document, which is being used by HUD to develop its own lead-based paint guidelines specifically for public and Indian housing, is the first attempt at the national level to present technical guidelines on how to accurately identify and then safely solve the problem. When the HUD developed guidelines are issued in April, 1990, as directed by the Congress, the nation will have for the first time, basic technical guidance for a problem that has been recognized for more then two decades.

When addressing the lead-based paint issue, it is vital to consider obligation to the public. Many public health professionals believe actions to correct the problem have been seriously inadequate. Their concern is that thousands of children continue to be harmed by lead intake even though technical guidance has been available for nearly a year. Equally important, it is widely recognized that abatement action is taking place with increasing frequency. Such projects are believed to be carried out without adequate protection to workers and occupants.

DIRECTORY OF ONLINE DATABASES

In an effort to assist building professionals in their search for the most pertinent and up-to-date information available on current developments in building science and technology, NIBS' Information Committee, during 1989, undertook the development of a directory of online databases of pertinent building community information.

This 100-page Directory of Online Databases for Building and Construction, developed with partial funding by the Naval Facilities Engineering Command, identifies more than 200 databases that are available from eight major database vendors. These databases may be searched by practitioners and information specialists in the building fields using a personal computer equipped with a modem and commercial telephone lines.

The databases cover a broad range of domestic and international technical, regulatory, and general information, in areas such as:

ARCHITECTURE & ENGINEERING
ENERGY & ENVIRONMENT
HEALTH & SAFETY
LAW & LIABILITY
CODES & STANDARDS
PRODUCTS & MATERIALS
GEOLOGY & CLIMATOLOGY
RESEARCH & TECHNOLOGY
USER NEEDS
BUILDING TYPES

Bibliographic databases in each subject area can be used for checking on the availability of published information, identifying authors and institutions that may be contacted for specific information, and keeping up to date on new developments in the building fields.

76 databases contain technical data or summaries of research projects; full text of articles and construction related directories, as well as information on how to obtain access to the databases from the major vendor organizations. Copies of the directory are available from NIBS' publications department.

GSA MODEL CODES STUDY

In recent years the building community has made more consistent use of nationally recognized model codes. In the private sector this has led to a significant reduction in the use of costly, outdated and extraneous locally developed codes and standards, thus resulting in safer buildings.

With enactment of the Public Building Act Amendments of 1988, Congress has determined that consistent use of nationally recognized model building codes and other applicable nationally recognized codes would bring these advantages to federal construction programs. Further, the Act encourages the development and use of cooperative programs by federal agencies with local and state jurisdictions to utilize the capabilities of those jurisdictions for plan review and construction inspection.

The General Services Administration/Public Buildings Service (GSA/PBS) presently uses health and safety criteria developed in-house with varying references to nationally recognized codes which regulate buildings. Designs for GSA/PBS construction projects are checked by the agency's regional staffs and/or outside consultants. Recognizing the need for broad based guidance to determine the most appropriate ways to implement the law, GSA/PBS requested NIBS' recommendations.

In Spring 1989, NIBS convened a 60-member project committee comprised of architects, engineers, building and fire officials, contractors, GSA/PBS officials, code officials, building owners, building product manufacturers, building product testing agents, representatives of other federal agencies, and others. They formed two subcommittees, one on codes comparison and one on code compliance.

Over a six month period this committee:

- Compared nationally recognized codes with existing GSA design and construction criteria and criteria mandated by federal regulations.
- Compared health and safety provisions in current GSA criteria with those found in the model codes and other codes to insure consistent and appropriate levels of health and safety.

- Obtained data on code enforcement methods used by state and local governments.

In fall of 1989, NIBS delivered a report to GSA entitled, "GSA/PBS Codes Study." The report recommends that GSA/PBS:

- Develop code manuals which reference one of the three model building codes and other nationally recognized codes or standards.

- Adopt for each regional office one or more of the model code manuals appropriate to the location of work within each region.

- Regions use, for code compliance, to the greatest extent feasible, local plan checkers and construction inspectors.

- Regions, where use of local agencies is not practicable, should provide in-house reviews and inspections, or use consultants.

RADON

The U.S. Environmental Protection Agency (EPA) estimates that from 5,000 to 20,000 lung cancer deaths per year in the U.S. are caused by exposure to radon, a colorless, odorless, tasteless, radioactive gas that occurs naturally in soil, underground water, and outdoor air.

Radon exists at various levels of strength throughout the U.S. Since the discovery of high levels of radon in a house in Pennsylvania in 1984, tests in other areas of the country have also found elevated radon levels.

In 1989, NIBS was asked to advise the EPA on the development of proposed construction standards and techniques for controlling radon levels in new buildings. Public Law 100-551 requires model standards to be made available by EPA to the public by June 1, 1990.

According to the EPA, soil gas entering homes through exposed soil in crawl spaces, through cracks and openings in slab-on-grade floors and through below grade walls and floors are the primary radon sources.

Effective radon control in buildings involves modifications to many current building materials, systems and methods. In addition to the radon related role of these components, they also function to meet a host of other needs such as structural integrity, fire safety and ventilation

Standards and building codes have been developed and refined over the years to respond to these needs. In addressing the radon problem, it is critical to avoid both negating what has been achieved in meeting other building performance needs, and creating conflicts between new regulations and existing provisions. Thus, it is important to integrate the knowledge of the nation's radon specialists with the nation's experts in other building performance areas.

Under a cost sharing agreement with the EPA, NIBS has been asked to rewrite the EPA's draft document: Model Standards and Techniques for Controlling Radon Levels within New Buildings. To achieve the project objectives NIBS formed a project committee comprised of federal, state and local model code and standards writing organizations, government officials, product manufacturers, design professionals, contractors, builders, and others with experience and interest in the subject.

NIBS' radon project committee is in the process of:

1) Identifying existing standards which govern building and housing products, materials, components, subsystems, and systems which may be affected by EPA's draft model standards.

2) Identifying potential problems caused by conflicts between existing standards and EPA draft model standards.

3) Confirming the appropriateness of initial standards and adding others as needed.

4) Developing ways to resolve conflicts between existing standards and EPA draft model standards.

5) Identifying conceptual revisions to such standards that will mitigate radon problems.

6) Developing consensus on recommended revisions to the draft of EPA model standards and rewriting the document.

The draft developed by the committee will be accepted by written ballot through NIBS' consensus procedures.

BUILDING TECHNOLOGY RESEARCH AGENDA

The federal government's Centers for Building Technology (CBT) and Fire Research (CFR) conduct non-proprietary research to benefit the housing and building community. In an effort to assure that the federal funds are wisely invested in activities of most use to the building community, NIBS regularly provides a comprehensive technical research agenda for their work pertaining to housing and building.

The recommendations were developed by NIBS by polling the nation's building community and asking what areas of research are the most important in the four specific areas of fire safety research, building materials, building environment and building structures.

Other Institute programs conducted in 1989 included:

CONSTRUCTION CRITERIA BASE

Currently, the federal government's spends nearly $40 billion on design and construction annually. The government's requirements to manage this significant program has been governed through a paper based criteria dissemination program, which has, in recent years, been staggering under its own increasing weight. In addition to the criteria produced by the nearly two dozen federal agencies involved, other criteria are produced by hundreds of trade associations, professional societies, and codes and standard organizations. Many of these documents are required by the federal design and construction process. All in all, there are over 5,000 separate criteria documents.

The inability of agencies to coordinate these materials to provide timely dissemination, avoid duplication and conflict, maintain accuracy and currency, and assure proper cross-referencing has become enormously time consuming and expensive. The ability of designers and contractors to have access to all the current materials required is hampered by the diverse number of publishing organizations and the cost and time required to obtain, and keep the information current. Another major problem has been the inability to research the vast amount of design and construction information with any degree of timeliness and precision. The voluminous amount of non-integrated information used in design and construction contain numerous conflicts, redundancies and alternatives.

NIBS' Construction Criteria Base (CCB) is a new innovation in the development, distribution, and use of design and construction criteria. CCB grew out of research conducted by NIBS in 1986 and supported by the Department of Defense, the Naval Facilities Engineering Command, and the Army Corps of Engineers who requested NIBS' assistance in seeking a solution of their problem.

CCB uses advanced optical disc or CD-ROM (Compact Disc-Read Only Memory) technology to provide immediate, integrated, and comprehensive access to unprecedented quantities of information. Included in CCB are specifications, standards, guidelines, manuals, codes, regulations and other design and construction information from multiple federal sources including NAVFAC, COE, VA, NASA, OSHA, GSA, DOE, and a range of private model building code and standards writing organizations.

This NIBS program provides a unique solution which dramatically improves the accuracy and efficiency associated with the distribution and use of relevant design and construction information while increasing the productive use of the data and minimizing waste, overlap and conflicts during design and construction. NIBS' Construction Criteria Base has grown from a 15,000 page collection of federal guide specifications in 1987 to nearly 250,000 pages of technical criteria today. CCB brings virtually all the technical information needed for most federal construction projects to those who design and construct facilities valued at approximately $40 billion dollars annually. CCB has become a primary medium to aid the transfer of technology.

Through the use of this state-of-the-art technology, CCB has allowed for the true integration of these widely dispersed information data bases through rapid full text search and retrieval and data manipulation. In addition graphics which are contained in the data bases are incorporated in CCB and can be called up to the computer screen for viewing, panning, zooming, and quality printing.

When it was introduced in 1987, CCB was the first operational CD-ROM system in the construction industry. CCB had more than 700 annual subscribers in 1989. The objectives for the program are to provide a central source of criteria needed for design and construction; provide this source of information at the lowest possible costs in order to increase its dissemination to all sectors of the building community; and to provide state-of-the-art enhancements to increase the usefulness and responsiveness of the information during design and construction.

In 1989, NIBS added criteria from a wider number of federal agencies, began the process to add referenced standards from the private sector, model building codes, and improved software features to improve the system's organization and accessibility.

Widely considered a major innovation in the building industry, CCB is revolutionizing the distribution, maintenance, and use of design and construction information and thereby resulting in increased productivity, decreased costs, and a better built environment. This program responds directly to two major parts of the Institute's authorizing legislation: to facilitate the development of new technology and to disseminate technical criteria to the building community.

FOREIGN INFLUENCES IN THE U.S. BUILDING INDUSTRY

The public and private sectors of America's housing and building industry spend approximately one twelfth of one percent of their total revenues on research and development. Japan spends approximately two and a half times this amount. In 1989, foreign investors owned 46 percent of the prime commercial real estate in Los Angeles, Calif., 33 percent in Washington, D.C., and 39 percent in Houston, Texas.

Among the American public, these facts and figures are generally viewed with a sense of alarm. They are seen as signs that America is losing its world leadership role in design and construction, or that some foreign companies will soon overrun our markets with building products and services. But how justified is this sense of alarm? What does the recent awareness of foreign influences really mean? And, more importantly, what should be done by the public and private sectors to meet these challenges? The answers to such questions are vital to our economy.

The domestic construction volume in 1989 was nearly $500 billion, nearly 13% of our Gross Domestic Product, not counting production and transportation of construction materials and equipment. Construction employs over 5.5 million people, thus it is the largest single industry in the United States.'

In 1987, the Institute's Board of Directors found that the issue of foreign influences was of so much concern to the housing and building industry that it created a task force to explore the matter more fully. Through its deliberations in 1988, the task force found early on that this problem was and still is not well understood. Thus, the task force began with a broad approach to the issue. Six areas were singled out for study by separate subcommittees: research and development, foreign investment, innovation and technology, construction and materials, productivity and quality, and foreign entries into the building industry.

In 1989, NIBS published the report, "Foreign Influences in the U.S. Building Industry." The report's background chapter places the foreign influences issue in perspective with historical and economic trends. Its concluding chapter demonstrates that the issue of foreign influences should be viewed in terms of opportunities to the nation's building industry.

The body of the report is a two part fact-finding document. Part I - Technical Issues, includes chapters on: innovation in the design of housing for overseas markets; adopting foreign production and quality control techniques in the manufacture of factory-built housing; how Japanese construction companies will find difficulty competing in America; and, levels of funding, impediments and future directions for research and development in the construction industry. Part II - Economic and Marketing Issues, contains chapters on: attitudes of states toward foreign investments; and, a Canadian view of foreign direct investments in design and construction firms. The report is available as an Institute publication.

LAND-USE GUIDELINES

While the cost of home construction continues to rise, the cost of the land on which most houses stand is rising even faster. Land costs now represent 25 percent of the total price of a typical single family home in the U.S. This compares to 10 percent in the late 1950s. Growing regulation plays a key role in these cost increases. Restrictions often prevent the developer from making the most efficient use of the land and they reduce the amount of land available.

In 1987, NIBS' newly formed Land Use Task Force held hearings throughout the U.S. The hearings were conducted to identify acceptable standards and regulations which may result in reduced costs, and which might be included in guidelines for incorporation into land development codes. The hearings also identified examples of regressive, restrictive and discriminatory practices. These were grouped into the following categories for analysis:

- o comprehensive planning and zoning techniques
- o subdivision regulations
- o residential density
- o street and parking
- o municipal finance for infrastructure
- o development of sensitive sites
- o the development approval process
- o water and sewer installations

The task force identified a need for improved standardization in land development. Members of the volunteer task force from the fields of planning, architecture, engineering and construction, found that considerable amounts of time and money are being lost in private negotiations, planning commission meetings and zoning hearings because current approaches are often outdated, fragmented, and variable.

Criteria and standards often adopted or continued by communities without consideration of the range of available alternatives and without consideration of the impact of many of the involved costs. The task force heard that city agencies frequently make decisions that simply shift costs to other departments even though it may lead to overall cost increases. They also heard that developers will ask for variances or changes in regulations to accommodate a project but don't use opportunities (such as cluster developments and zero lot lines) offered by regulations in a second or third project. Often variances are given for specific projects but are not incorporated into regulations to benefit future use.

The NIBS study is designed to encourage wider acceptance of cost effective measures by preparing a handbook on land use guidelines. In 1988, the task force began writing the residential land development guidelines for use by local planning professionals and local citizens involved in the planning and zoning process. In 1989 a draft of a non-technical handbook on residential land development guidelines was prepared for review prior to its publication in 1990.

EVALUATING CRITERIA IN THE U.S. COURTS DESIGN GUIDE

The facilities of the federal court system, including hundreds of courtrooms and auxiliary spaces, are unable to keep up with the growing number of legal cases, increased security needs, or accommodate modern technology such as lighting, acoustics, electrical equipment, and automation that is increasingly becoming a part of our nation's judicial system.

In 1989, NIBS began a two-year project for the Administrative Office of the U.S. Courts (AOUSC) to evaluate and update the federal criteria used to dictate how courts are designed and built in the U.S. The criteria, published in a document called the U.S. Courts Design Guide, is used by the General Services Administration (GSA) in the design and construction of U.S. Court facilities.

Court officials say the results of the NIBS project will affect each of the nation's 630 court facilities as well as those ready for remodeling and ready to be built. In 1990 and 1991, GSA has budgeted for 42 projects costing $1.5 million or more each. These include the rehabilitation of existing court facilities and the construction of at least ten new courthouses.

To plan for this effort, the Institute, under contract with the Administrative Office of the U.S. Courts (AOUSC), developed a work plan describing the tasks, time schedules and budgets for evaluating criteria for courts facilities.

The work plan proposes a seven phase project. Phase I includes assembling consultants, developing scopes of work and negotiating contracts. Phase II includes research of courts criteria literature, interviews with departments in AOUSC, Justice Department agencies, and courts personnel, and visits to existing, new and renovated court buildings. Phase III includes data analysis. In phase IV, criteria will be developed by the consultants, and in phase V criteria will be reviewed and revised for function and cost. In two phases VI and VII, criteria will be written, reviewed and accepted by the AOUSC Space and Planning Committee and a NIBS advisory group. The project is expected to take two years to accomplish.

In 1989, NIBS performed Phases I and II of the project under a contract from AOUSC. NIBS' work was supported by an expert principal consultant and specialty consultants for space, furniture and finishes; security equipment; acoustics; mechanical-electrical systems, and automation systems.

Criteria information was developed from studying federal courthouses of different sizes, age, types of tenancy and in more than a dozen geographic locations. In addition, interviews were conducted with numerous court personnel to collect needed data. Data collected in Phase II was used to develop preliminary narrative, and tabulated and graphic information.

COMBUSTION TOXICITY/FIRE HAZARDS

A growing concern of the housing and building community in recent years was the fact that the fire death rate in the U.S. was substantially higher than that of most industrialized nations. Equally upsetting was the fact that toxic smoke was being identified as the principal killer and cause of injury in building fires, particularly residential fires.

Some believed that a major cause of the U.S. experience was the growing use of man-made materials, especially in the contents of buildings. Others claimed that fires could be adequately controlled through the use of detection and preventive devices. There was confusion stemming from conflicting reports, with no agreement on a course of action. It was also clear that there was no single solution. While per capita deaths have been on the decline in America, fire deaths related to inhalation of toxic smoke remained high, at 80 percent of all fatalities.

For several years, NIBS had followed closely the growing public interest in combustion toxicity of building products and furnishings. In pursuit of its Congressionally authorized role of rationalizing the building regulatory process through the development of performance criteria, the Institute held conferences in 1982 and 1984 in which representatives of some 80 organizations participated. All points of view were brought out in the discussions that took place on use of new techniques, changes in fire death rates and other dynamics of the issue. Conferees concluded that smoke toxicity resulting from fires in buildings was a matter of concern; however, they noted that there was insufficient data on which to base any new form of regulation.

In 1986, the Institute convened a meeting of well informed scientists and fire experts from the public and private sectors to examine the "state-of-the-art" technology in fire and life safety practices. The purpose was to provide an overview of the issues' complexities and controversies. Current levels of computerized fire modeling were reviewed and considered to be promising but premature for practical use.

The attendees, recognizing that several states were seeking, or planning to seek, legislative remedies, all with differing requirements, recommended that the Institute undertake the development of a new performance-type test to measure the potential combustion toxic hazard of building products and building contents. The goal was to submit the proposed test method and supporting data to appropriate voluntary consensus standards organization so that all parties could adhere to a nationally recognized uniform standard which responds to today's performance needs.

The Institute's Board of Directors endorsed the recommendation. Funding commitments were secured from the private sector to help defray the costs of this three year project. Public entities at federal, state and local levels joined the private professionals by contributing technical and practical advice.

Altogether some 150 people have participated in the project with some 70 serving on a steering committee. Southwest Research Institute (SWRI) was selected to do the laboratory research experiments which were identified by a working group of seven experts selected from the steering committee. The initial assignment of perfecting the test apparatus and testing some 20 different product configurations was largely completed during 1989.

In addition, during 1989 the Institute completed publication of proceedings from the August 1988 Fire Hazard III Conference, which provided some 140 attendees an opportunity to review and comment on the research experiments that had been conducted at SWRI. These proceedings are available from NIBS' Publications Department.

Through this volunteer effort, the Institute with its unique capacity to bring public and private forces together in common effort is effectively serving the public interest by assisting in the development of a well-balanced and meaningful response to the public concern about this special issue of combustion toxicity.

STATE COUNCILS

While the Consultative Council of NIBS focuses its efforts primarily on issues of national concern, on a number of occasions statewide Councils have been formed to address local issues of importance to the building community in an individual state. The Institute has served as the umbrella organization for Councils in Ohio, West Virginia, Florida, and California.

For the past six years, a number of industry and government leaders in the state of Ohio have convened on a regular basis to address some very specific statewide concerns. During 1989, concerns addressed by the Ohio Council included the State's plumbing code, a "seal law" requiring buildings to be designed by registered architects and engineers, and home rule.

NIBS 11TH ANNUAL MEETING IN WASHINGTON

NIBS' 11th Annual Meeting and Washington Update was held Nov. 5-8 in Washington, D.C. The meeting focused on some of the most topical issues facing the nation's building community: building seismic safety, housing affordability, the European Community 1992, and building-related environmental issues. Some excerpts follow:

HOUSING AFFORDABILITY: Although many of the presentations addressed related financial issues, recommendations related to improved use of existing (especially inner-city) building stock, technology and regulations included the need for streamlined regulations, more cost effective codes, a more responsive building product approval process and a need to strengthen the nation's infrastructure.

ENVIRONMENTAL ISSUES: The nation's building technology and product approval process can assist in such objectives as increasing energy efficiency, fostering practices which don't contribute negatively toward global warming through reduced dependency on CFCs through increased development, and use of other environmentally sound alternative materials and methods. At current rates of energy consumption, society might be faced with unprecedented needs for new nuclear reactors. $25 to $30 billion a year could be saved by improving the way we light buildings. Cooling system costs could be reduced because such a large percentage of energy is used just to cool the air heated by lights.

Environmental concerns must be carefully analyzed. For example, replacing wood destroyed by termites and other wood destroying organisms costs $1 billion per year. Thus, it is important to determine the proper balance on environmental issues related to pesticides and costs we incur.

Scientific methods available today make it possible to measure potentially hazardous materials in parts per billion and even per trillion. The list of alleged contaminants grows almost daily and more than 10,000 contaminants are now believed to exist indoors. The cost of abating many of these hazardous materials could stifle future progress in other areas and the cost of asbestos abatement, as one example, could amount to hundreds of billions of dollars into the next century. Health standards should be based on documented health effects and exposure data. The building community can then create and follow criteria which responds to governmentally established health standards.

REGULATORY ISSUES: Thirty six states have their own modular housing regulatory programs with little reciprocity among them. This frustrates the abilities of regional and national manufacturers to mass produce low cost homes.

INTERNATIONAL ISSUES: The unification of the European nation's into one trading partner will affect standards, product certification, product testing, and licensing of design and construction entities. The control of testing and certification is an extremely important variable in the ability of U.S. industry to effectively do business in the European Community.

BUILDING SEISMIC SAFETY

As the 1988 Armenian and the 1989 Loma Prieta earthquakes have shown, even a moderately severe earthquake is one of nature's most terrifying and devastating events. Collapsing buildings and falling debris can take tens of thousands of lives and earthquake damage can cripple emergency response and recovery efforts. Many of these immediate cost estimates don't include long term losses to business and individuals. In North America, far less severe earthquakes centered in eastern Canada and southern California resulted in several million dollars of damage to public and private property in 1988.

The United States has not suffered a severe earthquake (8.0 and above) for many decades, but the potential for incredible disruption, damage, and death exists since more than 70 million Americans in 44 states are constantly at risk from moderate to severe earthquakes. Of special concern are the central and eastern parts of the nation for it is here that the largest U.S. earthquakes occurred in the past.

Since the most recent of these severe earthquakes occurred more than 100 years ago, most people assume that they will not occur again. Therefore, little has been done in these areas to design and construct earthquake-resistant buildings and other facilities essential to modern life such as bridges and other transportation system components, oil and gas pipelines, electric power and communication systems, and water and sewer systems.

NIBS' Building Seismic Safety Council (BSSC) is a unique instrument for dealing with the complex regulatory environment and the related technical, social, and economic issues involved in developing and promulgating nationally applicable building earthquake hazard mitigation regulatory provisions that can mitigate the threat to life safety and property from seismic hazard across the United States. BSSC was established in 1979, under the auspices of NIBS, as an independent, voluntary membership body to bring together all of the needed expertise and all the relevant public and private interests to resolve issues related to the seismic safety of buildings and to overcome jurisdictional problems by providing authoritative guidance and assistance backed by broad consensus. BSSC's 54 members represent the full spectrum of building community interests such as planning, design, construction, regulation, and utilization of buildings. To fulfill its purpose, the BSSC:

- Promotes the development of seismic safety provisions suitable for use throughout the United States;
- Recommends and encourages the adoption of appropriate seismic safety provisions in voluntary standards and model codes;
- Assesses progress in the implementation of such provisions by federal, state, and local regulatory and construction agencies;
- Identifies opportunities for improving seismic safety regulations and practices and encourages public and private organizations to effect such improvements;
- Promotes the development of training and educational courses and materials for use by design professionals, builders, building regulatory officials, elected officials, industry representatives, other members of the building community, and the public;
- Advises government bodies on their programs of research, development, and implementation; and
- Periodically reviews and evaluates research findings, practices, and experience and makes recommendations for incorporation into seismic design practices.

The BSSC is committed to continued technical improvement of seismic design provisions, assessment of advances in engineering knowledge and design experience, and evaluation of earthquake impacts. It recognizes that appropriate earthquake hazard reduction measures and initiatives should be adopted by existing organizations and institutions and incorporated, whenever possible, into their legislation, regulations, practices, rules, codes, relief procedures, and loan requirements so that these measures and initiatives become an integral part of established activities, not additional burdens. The BSSC itself assumes no standards-making or -promulgating role; rather, it advocates that code- and standards-formulation organizations consider BSSC recommendations for inclusion into their documents and standards.

During 1989, the BSSC made considerable progress in providing up-to-date resources for use in developing seismic design provisions and in promoting earthquake awareness nationwide. BSSC initiated the second of a series of planned triennial updates of the National Earthquake Hazard Reduction Program (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Buildings and plans to have the revised document ready for release in late 1991. The NEHRP Recommended Provisions serves as the centerpiece of the Council's program and is intended to continue to serve as a source document for use by all interested members of the building community.

Equally important is the success being achieved in the BSSC's efforts to stimulate widespread use of the Provisions. During 1989, the last two of five important publications to complement the Provisions--the BSSC's Seismic Considerations handbooks--were published. These handbooks are aimed at motivating the decision-makers responsible for elementary and secondary schools, health care facilities, hotels and motels, apartment buildings, and office buildings to consider the seismic hazard and the risk it may pose for their buildings. Also, a significant effort has been made to respond to media requests for information. As a result, articles on the BSSC program have been requested by, prepared for, and appeared in nearly two dozen major publications. Coupled with these publication efforts is a demonstration effort and a series of awareness and assistance activities designed to promote improved seismic safety--especially among building owners and developers, insurers and investors, design professionals, code groups, and the general public.

The BSSC's work in 1989 was made possible with funding from the Federal Emergency Management Agency (FEMA) and thousands of volunteer hours on the part of many of the nation's leading experts on seismic design and construction.

LIFELINES

Lifelines are those systems upon which society relies heavily to provide it with energy, water, sewer, transportation, and communication. The physical facilities and components that comprise these systems are critical to lifeline operation and, therefore, to the safety and security of the nation's citizens and their resources.

In 1987, BSSC transmitted to the Federal Emergency Management Agency a report of actions needed to mitigate the seismic risk to the nation's lifelines. Developed by a group of 65 lifeline experts, this report, entitled Abatement of Seismic Hazards to Lifelines: An Action Plan, recommended 67 high-priority projects estimated to cost approximately $29 million.

In recognition of both the complexity and importance of lifelines and their susceptibility to disruption as a result of earthquakes and other natural hazards, FEMA, as the federal government's disaster preparedness agency and the lead agency in the National Earthquake Hazards Reduction Program, concluded that the lifeline problem could best be approached through a nationally coordinated and structured program aimed at abating the risk to lifelines from earthquakes as well as other natural hazards. At about the same time, the Expert Review Committee that reviewed the NEHRP program stressed the need to implement a beginning program in lifelines and the development of design criteria, codes, and standards of practice for the design, construction and retrofitting of seismically resistant lifelines.

Thus, during 1989 FEMA looked to NIBS to provide it with guidance in formulating such a program as well as in launching the program by identifying activities (from the BSSC Action Plan and elsewhere) that should be initiated in the near term (three to six years).

To accomplish this work, NIBS appointed an ad hoc Panel on Lifelines composed of experts in the technical and operational aspects of lifeline systems as well as in various political, social, economic, and legal aspects of reducing the risk to lifelines and public welfare from natural hazards. The panel functioned under the broad technical auspices of the BSSC Board and was assisted by BSSC staff. In its report, Strategies and Approaches for Implementing a Comprehensive Program to Mitigate the Risk to Lifelines from Earthquakes and Other Natural Hazards, the panel recommended that FEMA:

- Structure a nationally coordinated, comprehensive program for mitigating the risk to lifelines from seismic and other natural hazards that focuses on five areas of activity: awareness and education, vulnerability assessment, design criteria and standards, regulatory policy, and continuing guidance.
- Formalize a set of selection criteria for identifying the specific activities to be undertaken as part of the program.
- Urge other agencies and organizations to fund and otherwise support lifeline activities, including continuing research, that fall within their areas of responsibility or need.
- Establish a continuing guidance activity to ensure that continuing program input is received from all segments of the lifeline community and that all relevant lifeline agencies and organizations are involved in program implementation and information dissemination activities.

The activities recommended by the panel for implementation over the near term focus on:

- Increasing the awareness of lifeline service providers, users, and regulators of the potential effects of earthquakes and other natural hazards and providing these groups with needed educational tools concerning natural hazard mitigation.
- Assessing the vulnerability of the various types of lifelines to the various hazards in various risk areas and ensuring that experience data are appropriately gathered and evaluated.
- Developing criteria and standards for the design of new and the retrofitting of existing lifelines to provide them with the needed resistance to the various natural hazards.
- Stimulating the adoption of up-to-date hazard mitigation criteria and standards by the various regulatory bodies responsible for lifelines.
- Ensuring that new knowledge is periodically evaluated and that program activities are periodically assessed to ensure that no areas of importance are overlooked or new knowledge or experience ignored.

BUILDING THERMAL ENVELOPE COORDINATING COUNCIL (BTECC)

The nation's 70 million residential and four million non-residential structures consume one-third of the total energy used by the United States at a cost well in excess of $100 billion per year. While a considerable amount of research is being conducted to improve the energy efficiency of America's buildings there has been a lack of coordination of the various researching bodies to assure that duplication does not detract from the overall end product.

In 1982, NIBS was called on by members of the nation's housing and building community to assist in the creation of a broadly representative council to coordinate the nation's research and development effort to increase the energy efficient performance of homes, offices, schools and industrial buildings.

Organized under the auspices of NIBS, with the Institute serving as secretariat, the Building Thermal Envelope Coordinating Council (BTECC) exists to stimulate and coordinate non-proprietary research and technical activities. BTECC accomplishes much of its work through its six Research Coordinating Committees (RCCs). Members of BTECC participate in the following RCCs:

- Building thermal envelope materials;
- Fenestration - thermal and daylighting;
- Moisture control in buildings;
- Heat and mass transfer measurement;
- Air infiltration and ventilation; and
- Thermal performance of whole buildings/passive energy systems.

During BTECC's 1989 meetings the RCCs focused on the impact of federal legislation on replacing chlorofluorocarbons (CFCs) as a blowing agent for insulation products, and the role of window energy efficiency rating systems, the effect of aging on insulation R-values, and building thermal envelope performance programs in other countries.

During 1989, BTECC began the planning of two workshops. The first on heat flux measurements and the other on the prevention and repair of condensation damage. The RCC on Thermal Envelope Material is studying the feasibility of a tracking system on current research and publications on building thermal envelopes.

During 1989, NIBS, on behalf of BTECC also signed an agreement with Oak Ridge National Laboratory to explore the feasibility of developing a system to track current research and publications on building thermal envelope systems.

As one of the Institute's Councils, BTECC advances the building sciences mission of NIBS by uniting the building community within the scope of energy conservation.

WOOD PROTECTION COUNCIL

It is estimated that over $750 million is spent each year in replacing wood in building structures that are severely damaged by decay and termite attack. While there were some initiatives during the 1960s to address the problem, during the early 1970s private sector initiatives to protect buildings from damage due to wood destroying organisms slowed significantly.

In 1983, the Wood Protection Council was formed under the auspices of NIBS. The goal of the Council is to promote the development and use of safe and effective control technologies for the protection of new and existing buildings from damage by decay and wood destroying organisms.

WPC's Codes and Standards Committee is revising and expanding the Guidelines for Protection of Wood Against Decay and Termite Attack. In addition, the Council is developing guide specifications for procurement of treated wood and for soil treatment. The activities of the WPC have been specifically targeted to:

- Promote the development and use of sound technical and economic guidelines for active and passive methods for protecting structures including new and existing buildings, and other structures, through the use of current technologies;

- Improve the education of responsible public officials, building community members, and the public;

- Improve the dissemination of relevant technical information;

- Promote effective and current codes, standards, federal specifications and standards, and other technical criteria; and

- o Promote the research and assessment of new types of construction, new control methods, health effects of pesticides, and deactivation procedures for pesticide residues.

During 1989, NIBS published and marketed proceedings from a well-attended 1988 WPC workshop entitled "A New Look at Wood Protection." In addition to the many technical presentations, this workshop looked at the impact of recent pesticide regulations which have essentially removed the most effective termiticides from the marketplace. The proceedings of the workshop are available from NIBS' publications department.

SUMMARY

Madam Chair, on behalf of the members, the staff, and the board of directors of the National Institute of Building Sciences, I thank you and members of the Subcommittee for the privilege of testifying before you. The Institute has become an integral and important element of the building community and we hope this Subcommittee will look with favor on maintaining the excellent partnership with the private sector by continuing the matching fund concept. The Institute's programs are vital to improve and preserve the nation's built environment. NIBS, in the spirit of the public private partnership established by the Congress, is working effectively in the public interest to achieve those goals.

STATEMENT HIGHLIGHTS

Mr. KING. I'd like to just ask David if he would talk for a few minutes on two or three of our most important current projects.

Mr. HARRIS. The primary objective of the building codes and regulations is to prevent injury, illness, and death. These objectives are fundamental in all of NIBS' programs. I'd like to single out several of our current projects that address this objective. The first relates to fire toxicity in buildings.

FIRE HAZARDS

In 1988, there were over 500,000 residential building fires, nearly 5,000 of the residents of those units died, 22,600 were injured seriously, and $4 billion in residential property was damaged. Since most of these deaths resulted from smoke inhalation, it was clear to the NIBS' Board and to the entire Institute membership that we need a better method to assess the potential for toxic smoke from building products and furnishings in fires. For the last 2 years, NIBS has been working to develop a new test method that addresses three fundamental but fairly simple characteristics of the fire scenario.

One, how easy is a product to ignite; two, how fast does it burn; and three, how potent is the smoke that's given off. This has been one of the most difficult tasks that we've undertaken because its purpose is to create an entirely new test method. We have formed a working group to develop this method. When it is completed it will be submitted to the voluntary consensus standards process. To date, the program has cost $400,000, all of which was provided by the private sector. We are confident the program will result in a new voluntary standard that can be adopted in building codes, and that it will ultimately save lives.

REDUCING EARTHQUAKE DAMAGE

The second issue which we're all very concerned about is earthquakes. In the early 1800's, one of the strongest earthquakes on record occurred in the Memphis, TN, area. It was so strong that it cracked sidewalks in Washington, DC. If that same quake were to occur today, 5,000 people would likely die; 1,000 of them in Memphis alone. If it occurred during the day, about 1,000 children would die in schools. And it would probably cause over $50 billion in property damage.

Today there are 70 million people in 44 States that are constantly at risk from earthquakes' damage and death, even if the earthquakes are only moderate to severe. The areas of the Midwest and the Eastern United States are the areas of most concern because this is the area where the country's most severe earthquakes have occurred in the past.

NIBS' Building Seismic Safety Council has worked since 1982 to develop and promote the use of rational building criteria and the Loma Prieta earthquake in San Francisco last fall proves these criteria work. The west coast is far in advance in criteria development over those areas of regulations and codes east of the Rocky Mountains. Side-by-side examples of engineered buildings versus unengineered buildings prove these criteria really work. Criteria used to properly design building structures are the best insurance to save lives, promote safety, and prevent economic loss.

Another concern related to earthquakes is that of damage to the Nation's lifelines. Lifelines include transportation networks, communications, utilities, power, and so on. If the 1811–12 New Madrid, MO, earthquake were to occur today, it would cause such severe disruption to natural gas lines from the gulf area along the Mississippi River to serve the upper Midwest that it's likely there would be serious, impossible-to-replace shortages of acceptable alternative fuels to replace the loss of natural gas.

This work of BSSC and all NIBS' programs is accomplished by hundreds of volunteers through our consensus process. This allows the Nation's most knowledgeable experts to address and solve problems. It's the only system we've found that works.

LEAD-BASED PAINT HAZARDS

Another issue that is very topical today is lead-based paint. It may be that future civilizations will look back at our attempts to deal with these environmental hazards like lead paint, radon, and asbestos, and liken it to the medieval barbers who tried to cure the plague by bleeding. Regardless, health and environmental scientists can't always predict accurately the global environmental effects or the health effects of many, if not most, of today's known and suspected contaminants. Whatever methods we select and whatever policy decisions we make, we need technical criteria with which to both enforce and comply with health and safety levels that are set by the Government.

Many believe that we've waited too long for the perfect solution on lead paint, while millions of children and workers continue to suffer permanent damage. The environmental defense fund's latest report, which was released earlier this month, estimates that one in six preschool children have dangerously elevated blood lead levels. HUD indicates that it will release the lead paint guidelines on testing and abatement in a couple of weeks. Just as the EPA's purple book served as a primer in asbestos, it's expected that the HUD guide will serve that role for lead paint. But we found out very quickly that the asbestos primer was inadequate to serve all the needs of the emerging fast-growing asbestos industry. The lead-based paint abatement industry is expected to be subject to litigation potential similar to that experienced by the asbestos industry.

For that reason, the Institute's Board of Directors has approved the development of a guide specification that will provide a tool with which design professionals and others can create clear and complete communication among homebuilders, homeowners, housing authorities, contractors, design professionals, environmental consultants, laboratories, and others. The goal is to assure that projects that include lead-based paint abatement are carried out soundly and fairly.

DISSEMINATION AND USE OF BUILDING CRITERIA

I've described only a few of the many areas that demand criteria development. The solutions to distribute these criteria have not always been adequate. The building community now uses probably about one-half million pages of criteria to respond to regulatory and procurement needs.

NIBS' construction criteria base, which uses CD-ROM technology, and which we described last year, has progressed very well over the last year. In addition to DOD criteria, it serves other Federal agencies like NASA, the Department of Veterans' Affairs, EPA, and OSHA. We now include criteria developed by the private sector that is referenced in the Government's guide specifications and regulations. These private standards have been added at little or no cost to those who use this system because most of the organizations that publish them have allowed NIBS to add them on a royalty-free basis. This provides for the first time, a veritable library of criteria, now with 250,000 pages, and we're working to increase that. It provides accurate information promptly to those that needed it.

Thank you very much for the opportunity to testify.

We're now prepared to answer any questions you may have.

Senator MIKULSKI. Thank you for your testimony.

In opening the hearing, I neglected to ask Senator Garn and Senator Grassley if they had opening statements. I apologize.

Senator GARN. Thank you, Madam Chair. I don't have an opening statement, but I do ask unanimous consent that a statement by our colleague, Senator D'Amato, be placed in the record.

Senator MIKULSKI. Without objection, so ordered.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madame Chairman, I welcome the Opportunity today to have before us representatives from the Neighborhood Reinvestment Corporation, the National Institute of Building Sciences, and the Selective Service System.

Nationwide, the Neighborhood Reinvestment Corporation has made significant steps forward in meeting the needs of lower income neighborhoods. For every $1 in federal funds put into this program, another $35 is generated in local reinvestment.

In New York, NHS's are working statewide. Some current highlights include:—

The Lower East Side Mutual Association has its financing in place to start rehabilitation on their first 50 units in the Lower East Side; the New York City NHS has just expanded their service area by 100 percent and will be managing a $5 million pot of money for rehabilitation of properties throughout the city; the Ithaca Mutual Association is just about to start construction on a 14 unit building for low and moderate income families; Neighborhood Reinvestment is providing extensive technical assistance to an economic development venture in Cattaraugus County that should generate at least 150 jobs; and the Niagara Falls NHS has just completed conversion of the Ferry Avenue School into 39 units of rental housing for low income, elderly and handicapped persons.

I look forward to hearing from the NRC about the progress of the past year.

The National Institute of Building Sciences is a partner in the effort to rid lead based paint from our living environment. Estimates of the number of children with dangerous levels of lead in their blood range from 10% to 30% in New York City alone. It is estimated that nationwide three to four million children younger than six, or 17%, have harmful lead levels.

Low levels of lead exposure can lead to permanently lower IQ, cause attention disorders, and have long term effects on a child's ability to learn.

The Housing and Community Development Act of 1987 authorized abatement demonstrations in both HUD-owned and public housing. The purpose of the demonstrations are to prepare "comprehensive and workable plans" for the cost-effective inspection and abatement of public and private housing. I encourage cooperation between the National Institute of Building Sciences and the Department of Housing and Urban Development and the Environmental Protection Agency in successfully meeting the goals of this Act.

I look forward to hearing from all our witnesses today.

Thank you Madam Chairman.

Senator GRASSLEY. I have no opening statement for any of the three divisions that we're listening to today. I don't have questions of this panel but I do have questions of the next two panels, of which probably the third one I won't be here to be able to ask questions, and would like to have responses in writing.

Senator MIKULSKI. Without objection, and certainly you have our commitment to make that request.

Well, let's move onto the questions.

First, Mr. King, let me say this. I want to once again reiterate the fact that where we're being asked to make an appropriation without an authorization, is a difficult one for the Appropriations Committee to be in.

This in no way is critical of you or your staff and so on, but we'll ask some questions about lead paint. We thank you particularly for your comments on the fire hazard issue and the earthquake one. I think we all take a great deal of pride and relief that so few lives were lost in the San Francisco earthquake and a good part of that was due not only to the architecture design and building the actual building, but those lifelines that you talked about. Everybody knew where the levers were that they could turn off the gas, turn on the water, keep the subway, and all of those things. So we want to compliment you on that.

AUTHORIZATION FOR APPROPRIATION

Mr. King, the basic question I have is when will NIBS achieve self-sufficiency and where are you in terms of the agency getting an extended reauthorization if it's Congress' wish to do so?

Mr. KING. I'd like to take the second question first. We have been working with the House and we do feel that reauthorization will be forthcoming. It has not happened yet but we do feel that we are making progress in that area. It has not happened yet but I think that's the best answer I can give you at this time.

The big question, you've asked, I think, is one we've struggled with from the beginning. The original concept, I think, envisioned that there would be a time when the Institute would no longer need any financing from the Congress. We have a $3.3 million budget currently. The $500,000 we will receive this year is less than 15 percent of our budget. So, if you look at strictly the numbers, we've come very close to being financially independent. Whether or not, if that money were withdrawn, we would survive is just a guess on anyone's part.

What we have found over the years, though, which I think is even more important—and I have been involved in the Institute since it was created and chaired the first task force on Federal housing regulations in the beginning of the 1980's, have been involved in raising funds—there is something special about having been a creature of the Congress and that the Congress is providing some funds. We will lose some great assets if that were to be removed. Our ability to go out and raise matching funds from industry will be greatly diminished. Today, what those $500,000 do for us, since we have all the aspects of a business but we're not really a business, is to allow us to maintain a core staff.

For example, many of the contracts that we work on come from the Federal Government, but the Federal Government is not very good in paying their bills on time, as you probably know. We used almost $350,000 of last year's $500,000 to finance expenses incurred on these pending reimbursement by the Government. We need money just to start a project. The first funds we receive from the Federal Government are often months after we've started a project. So, in essence, the $500,000 is important for fund raising, it's important for credibility; I do not believe we would ever ask you for more than $500,000. I think we've reached the point where we know how to handle our operations, but we would be hurt, I think, without that.

NEED FOR APPROPRIATED FUNDS

Senator MIKULSKI. Do you feel that you are capable of surviving without Federal support, sir?

Mr. KING. That's a tough question, and as I said, time is the only criteria for answering that question. I would certainly, as Chairman of the Board, fight for us to survive. I don't know how well we would do. We would be less effective than we are today.

I'd just like to add one more point. We're not a regulatory agency and we do not want to be, but we have over the years been able to bring people to the table who have strong yet sometime competing interests. That's what the construction industry's made out of. Over the years they have learned, through the use of that process, that it's better to seek the public interest, and that in the long run, that's good for them. That's a process that everybody has to be educated to. So as years have gone on, we have more people available when the Congress gives us an assignment that will come to the table to reach a voluntary solution. It also means that something will happen. Without a mandatory force behind that, in some cases, it would just sit there.

So I think there's a great benefit to the process, and I would hate to see that eliminated.

Senator **Mikulski**. You can't say definitively that if we terminated the trust fund and the 15-percent revenue source to you that NIBS would go under?

Mr. **King**. Can I tell you that we would?

Senator **Mikulski**. I'm not saying you would. I'm trying in the most considerate way to identify the consequence of an action we might take, sir.

Mr. **King**. I think that it would cast a very serious shadow on the future of the Institute; yes.

Senator **Mikulski**. Now, your revenue—did you want to say something?

Mr. **Harris**. May I add something to the fundamental issue that we're addressing here.

It's not only a question of what NIBS would lose; it's what the Nation would lose. We leverage the dollars by using voluntary expertise on the many issues we address to create criteria that are productively used by the building community, a $500 billion a year industry. Without that, I think, the industry would be less effective. Those dollars are extremely wisely spent.

Mr. **King**. May I also just make one comment. As we look in the future, I'm afraid we have a whole series of similar events which we're going to go through with Radon, with contamination of commercial and residential buildings. All of these are environmental issues, very similar to the ones we've dealt with with asbestos, with radon. There's going to be a great need to bring the industry together to try and coalesce on some voluntary solutions. I think the Institute can make a major contribution in the next few years.

Senator **Mikulski**. Thank you for that.

LEAD-BASED PAINT

I have some other questions but we'll submit those for the record. The majority leader has advised us that we're going to have many votes this afternoon, and we're trying to move as quickly as we can.

I've a question about the lead-based paint study. As you know, we talked about this last year where we indicated in the hearing that your report had been criticized for ignoring issues as cost abatement, the minority views of the group, itself, and even this then goes to the dark side of private-sector funding, of allowing interest groups to essentially "buy or rent their way" onto the committee.

Since last year, we continue to receive in this office some unfavorable comments about that, even though I know that you've done more to correct some of those concerns. Could you tell me what actions along these lines have been taken or are being considered.

Mr. **King**. David and I both will have a comment. Let me go back to the beginning. The Congress also gave us some good guidance and some sets of rules to live by. Our project committees, Madam Chair, are required to have both private and public interests. The dominant force in those project committees are the public interest. So there is both nothing inappropriate for having—in this particular case, I think the charge was a manufacturer of lead-based paint testing or abatement equipment sat at the table. We can get the expertise from that person but our rules prevent any private interest from ever being able to dominate in the action of the committee.

The other point that we have struggled with, and we will in the future, is that we were asked to develop guidelines, and yet the Federal Government had not acted to establish a Federal health level. I had great trouble with that, and I was the Vice Chairman of the Board at that time and we said, we can tell you, if you tell us what's safe, we can tell you how to conduct abatement to achieve the federally established level of safety. We went to HUD and sought their guidance. The state of the art at that time was the work being done in Baltimore and that was what the committee recommended. We were not asked, nor could we determine the exact cost efficiency of those methods. We weren't asked to find a way to do it for *x* dollars a square foot. We were asked to come up with guidelines to tell people how you could safely abate lead-based paint hazards. When the minority opinion came up on cost, we agreed with them and we attempted, in our report, to say we need new test methods, and there's probably a need for more Federal funding.

But I think as far as what we have done, we have continued to search for ways to improve our guidelines. But these were worked out in a democratic process.

Mr. HARRIS. When HUD releases the guidelines and some comparative evaluations are independently made, I think we'll find that the guidelines that NIBS created and produced and were sent to HUD over a year ago, there's probably very little difference in the cost of the average project from the guidelines that HUD will release. Overall, for protection of the worker, protection of the environment, testing requirements, cleanup and disposal, I think we'll find the costs are quite similar. The basic differences are the result of research that wasn't available when our committee work was done. NIST research results on testing methods were turned over to HUD in December of last year for example.

Senator MIKULSKI. I have many more questions but I'm going to submit those for the record due to the busy afternoon that we have and ask Senator Garn to see if he has any questions.

Senator GARN. Thank you very much, Madam Chair.

Just a brief comment. I have always supported NIBS. But I must admit, gentlemen, that I have considerable frustration. Maybe that's one of the problems with being around here as long as I have; you remember things. I can remember all the years that NIBS was going to be self-sufficient. Then that was turned around with a request for the $5 million trust fund. Then that was limited by Senator Chafee's amendment to 5 years, then that is sunsetted.

But I guess I want to indicate somewhat of a displeasure of sitting here for more than a decade and always listening to the promises that something is going to happen, and I have to assume that those are made in good faith, but they've never been fulfilled. That has to disturb me because year after year, I would hear, well, just give us a little bit more and then we'll be self-sufficient and we can handle it. Then it's, well, don't give us direct appropriations, give us the trust fund, and we'll live off the interest from the trust fund. Now we're back to direct appropriations again.

So I have no questions. I'm just a little bit disturbed as I listen to testimony on this Appropriations Committee for the last 12 years. It isn't just you, but there's many times that promises are made that simply are not fulfilled. Yet, I am pleased with the work you do; that is not the problem. But I wish we could have more straight answers. I wish you could answer the chairman's question of, Is this life blood or—because I get somewhat tempted to say, let's find out after 12 years of hearing promises. Let's find out what happens to you if we take the Federal funds away, because although $500,000 isn't a lot of money, $500,000 here and $1 million there, and so on, and we face very difficult choices, particularly within this subcommittee with EPA and Veterans and NASA and other projects. So I think those are some of the questions you're going to have to answer for me, and in the future be more definitive, because I've listened for 12 years and, unfortunately, the work product has been good but the promises before the committee have not been.

Thank you.

Senator **Mikulski**. Senator Grassley?

Senator **Grassley**. No; not for this panel.

Senator **Mikulski**. Well, thank you, Mr. King and your staff for their presentation. We'll have some other questions for the record, and we will continue being in communication.

Senator **Mikulski**. Thank you for this afternoon, and the preliminary conversations with our staff.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Institute for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

FINANCIAL SELF-SUFFICIENCY OF NIBS

Question. We are pleased to note that after two years of operating losses and declining equity, NIBS had a healthy profit in 1989. From examining the financial data you provided this subcommittee, this appears to be in large part a result of steadily increasing sales revenue from your "Construction Criteria Base" project and other completed products, and not a cyclical variation likely to reverse itself next year. The interest from the Federal trust fund now represents only 15% of your total revenues. I assume loss of this source of funding would not cause you to cease operations. What effect would it have? Could you explain in some detail just what the $500,000 trust fund interest means to NIBS in terms of studies that will be deferred or cancelled, private contributions that you have a basis for saying will not be forthcoming without the Federal match, intangibles, etc.?

Answer. According to the Institute's authorizing legislation, Congress saw a need for a National Institute of Building Sciences to address technical and regulatory issues affecting the built environment. To further this goal, Congress authorized a total of $10 million dollars for 1975 and 1976 to provide initial capital adequate for the exercise of the Institute's functions and responsibilities.

Although NIBS has only received $7.8 million of its original authorization, these funds still represent the primary single source of funding for the establishment, organization, development and growth of NIBS into the organization envisioned by Congress. As highlighted by our testimony, the benefits or potential benefits provided to the nation by the Institute have more than justified the investment made by Congress, and the Institute looks forward to continuing and expanding its services to the nation.

As noted by your question, the Congressional appropriations received by NIBS currently amount to only 15% of our total revenues. However, without these funds, the Institute would have recorded a cumulative deficit of $1.43 million dollars during the last three years, an amount which exceeds our total current fund balance by almost 57%. Without these funds, the existence of the Institute today would be in doubt.

Many of the programs which NIBS has initiated during the past three years would not have been possible without Congressional funding. For example, NIBS invested over $260,000 in initial research, development and promotion of the CCB program before the first subscription was sold. In fact, through the end of last fiscal year, expenses still exceeded revenues by $177,000, and we plan to significantly expand and enhance the system, which will require an additional investment of funds.

Likewise, before the first sale was made, NIBS invested $74,000 to produce its Asbestos Guide Specification, and currently has over $40,000 invested in producing an update to this important document.

Since the Institute never had an adequate pool of initial working capital, it has had to rely on positive cash flows to generate the funds necessary to finance the development of the programs, projects, and activities necessary to carry out the functions and responsibilities outlined in its authorizing legislation. Although the Institute has been able to assume many of these functions and responsibilities, there are still others which have had to wait for adequate funding. The stability of the Institute's cash flows is crucial to this developmental process, and annual Congressional funding has provided this stability.

It is unlikely that NIBS would cease operations next year without Congressional funding. However, at its current level of activity, NIBS would be operating at a deficit. To ensure our long term survival, this deficit would have to be eliminated, requiring the elimination or sharp curtailment in the development of new and existing programs. Activities such as enhancing the CCB system, updating the Asbestos Guide Specifications, developing land use criteria, coordinating building thermal envelope (energy) research, developing criteria for improving indoor air quality, developing criteria for safe and effective wood protection measures, reducing unnecessary regulatory impediments to the use of new construction technologies, and other important programs will have to be eliminated, postponed, or curtailed.

NIBS would also have to eliminate public outreach and information activities designed to educate and inform the building community about itself. These activities are crucial in developing new sources of funding, and their elimination would seriously hamper the Institute's ability to raise funds. Finally, the Institute's ability to raise private sector funds is largely dependent on it being viewed as a viable, long-term player in efforts to improve our built environment. Of prime importance, an end to Congressional funding would serve to diminish the stature of the Institute in the eyes of the private sector, and certainly would not enhance our ability to raise private sector funds.

Whether or not Congressional funding is critical to NIBS' survival, the most important issue is the extent to which the Institute's efforts to improve the safety, affordability, efficiency and overall quality of the built environment would be curtailed by the elimination of this funding. In 1974, Congress found that the lack of a National Institute of Building Sciences imposed a severe burden on all those who procure, design construct, use, operate, maintain and retire buildings. This support funding provided by Congress has benefitted the nation many times over and should be continued to aid the development of solutions to the myriad of problems confronting today's building process.

Question. As you have more and more completed projects and publications, won't sales revenues continue to grow?

Answer. Except for the sale of our Asbestos Guide Specifications and the Construction Criteria Base, the number of publications which generate income is limited.

One reason is that many of our reports are done for federal agencies. For example, the Lead-Based Paint and Radon Reports were done for HUD and EPA respectively. In both cases, the agencies will publish and disseminate the results rather than the document being published by NIBS. Likewise, FEMA publishes the works produced by the Institute's Building Seismic Safety Council. Another reason is that although our project activities focus on very important issues, the market potential of these reports is, in most cases, very limited.

Quite often, revenues generated from publication sales are merely replacing funds invested to research, develop and produce the report in the first place. Also, publication revenues are used to update or enhance documents such as the asbestos guide as technology and health standards advance.

The Institute does expect gross revenues from publication sales to increase over the next few years. However, such sales are not expected to generate significant net revenues which could be used to support the basic operations of the Institute.

Ultimately, publication sales are one area which is expected to generate significant discretionary and support funds for the Institute. However, our current publication base is actually quite small (2,000 - 3,000 publications sold per year). For this limited base of sales to generate significant general support funds would require rather significant increases in the price of these publications. This would reduce the range of dissemination to those who most need the documents. NIBS' mission is not to generate maximum profits, but to provide the maximum level of benefits and service to the nation.

One way to increase the base of the Institute's publication sales would be to allow NIBS to publish reports prepared for federal agencies. Not only would this save the government the cost of printing and distributing these reports, but it would generate funds which could be used to update and enhance these documents, or support other NIBS activities.

Question. Your financial statements indicate that from 1986 to 1989, your "contracts and grants" revenues essentially doubled, as did associated expenses. They also indicate that contract amounts recover direct and indirect costs plus about 10 percent. For "institute" related activities, the big revenue change was publication sales going from zero to $870,000, but institute expenses increased correspondingly. However, within institute programs, the CCB project alone had a 1989 profit of over $400,000, excluding overhead allocation. This would suggest that your contract efforts are negotiated essentially so as to not generate profits and that your institute programs are absorbing much of your sales revenue and private sector contributions. Could you confirm this interpretation? Wouldn't that mean that self-sufficiency could be achieved merely by reducing institute efforts to a level supportable by sales revenues, membership fees, and donations?

Answer. By fully allocating allowable general and administrative expenses to the Institute's contract activities, these activities would show a net loss of $635,000 for the last four years. This has been caused by several factors.

Although some of the actual differences between actual costs and contract revenues were due to management and organizational deficiencies which have been corrected, the major reason for this difference is that many agencies require cost sharing arrangements for many types of financial assistance. For example, EPA required NIBS to absorb 15K of 83K (20%+) of the cost of the radon project which was recently completed. Likewise, FEMA requires 5% cost sharing on its contracts. Sometimes, due to the importance of an issue, the NIBS board elects to undertake projects even though only partial funding is available.

In other situations, the Institute undertakes contracts on a fixed price basis. Due to the nature of our consensus process, we often have to absorb additional costs to complete some projects. For example, the Lead-Based Paint study performed for HUD cost the Institute an additional $40,000 to address the concerns raised by some of the project committee members. Additional meetings, mailings and staff time were needed to resolve these concerns in accordance with our consensus process.

Unfortunately, it is very difficult to recover these costs by generating a surplus on other contracts. Many federal agencies refuse to accept the legitimacy of fees in addition to direct and indirect costs on contracts, citing our "non profit" status, even though our legislation specifically authorizes the Institute to charge fees for its services, and despite the fact that the General Accounting Office has long recognized the legitimacy of contract fees as a source of working capital for non-profit organizations because federal contract regulations do not allow reimbursement of some legitimate business expenses, such as interest and fundraising.

NIBS does attempt to generate profits from some contracts, and is even successful on occasions. However, the nature of our contracts and the conditions forced upon the Institute by government agencies make it virtually impossible to generate any surplus funds from our contract activities.

The observation that CCB sales generated $400,000 in profits is not correct. The difference between the sales revenue and the cost of sales generated a margin of $400,000. However, the cost of sales represented the cost to purchase the actual hardware, software, and CD-ROM disks which were shipped to subscribers. It did not include the cost of updating the information on the disk each quarter, customer service, marketing, shipping, and overhead. When these costs are factored in, the program generated a surplus of about $90,000 for the year. These funds were used to partially offset our initial investment in the development of the system, ($260,000), and to provide for additional enhancements to the system.

In general, the observation that the remainder of the Institute programs absorb the revenues generated by publication sales, donations, membership fees and Congressional funding is correct. However, self sufficiency would not result from merely reducing Institute programs, nor would this approach be beneficial to the nation.

Last year, these programs, including their share of general and administrative expense, cost $1,352,247. The cost associated with CCB, publication sales, and membership represent $814,453 of this total, leaving $537,794 which was expended for other discretionary Institute programs. NIBS also absorbed $106,000 in losses from contracts last year. If Congressional funding were eliminated, NIBS would have to eliminate $606,000 in discretionary program expenses, from a budget of $537,794.

Therefore, in order to be self sufficient, NIBS would have to eliminate all discretionary activities except CCB, publication sales, and membership, plus an additional $70,000 in expenses from revenue producing activities. Since our ability to generate and market new publications and services would be eliminated, we would also expect to lose membership, donation and publication revenues over time, necessitating even more cuts in revenue producing activities.

Stable Congressional funding of $500,000 a year, provided in lieu of the initial infusion of $10 million for working capital, does allow the Institute to be self sufficient and fulfill its functions and responsibilities in accordance with its authorizing legislation.

Question. In addition, we note such things as $429,000 in overhead that has not been allocated to revenue-producing projects. If you are to be self-sufficient, don't your revenues have to recoup all your costs? Does this indicate your contracts are being negotiated at too low an amount, possibly even less than cost?

Answer. The general and administrative expenses to which you refer represent the cost of administering the affairs of Institute. Although these costs are shown separately on NIBS' audited financial statements, they are allocated internally to contracts, grants, and other Institute programs. Of the $428,977, $257,272 was allocated to contracts and grants, and the remaining $171,705 was allocated to Internal activities.

On this basis, total contract and grant expense for last year was $1,679,609, or $106,000 more than the income generated by these contracts and grants. As noted in the answer to the previous question, there are many reasons for this deficit. However, one of the main reasons is that most federal agencies do not allow profits or fees on contracts to non profit corporations, even though GAO recognizes the legitimacy of this practice, and the Institute's authorizing legislation specifically allows it. Further, since federal contract regulations do not allow reimbursement for many reasonable business expenses, including interest, fund raising, and marketing, it is not even possible to break even in most circumstances.

Question. Several factors obviously will enter into a funding determination for NIBS. But, regardless of this, is there something else the Congress could or should do to further the objectives of NIBS? For example, are there contracting laws or regulations impeding the use of NIBS by Federal agencies? Is there something Congress could do to encourage private sector funding?

Answer. Congress authorized the creation of NIBS, and established its basic functions, responsibilities, and mission. Congress has also provided a significant portion of the funding used to establish and organize the Institute. The stature and credibility conferred by this Congressional support is one of the most important factors behind the Institute's capabilities and accomplishments. Without the backing of Congress, NIBS would not exist.

Accordingly, any steps which Congress might take to further indicate its support of the Institute and its mission would be most helpful. Likewise, any indications from Congress of a lessening of support would be damaging to the stature and credibility of the Institute. In this regard, it may be difficult to separate Congressional funding from other forms of support.

A withdrawal of Congressional funding would create a perception that NIBS and its mission are no longer important to Congress. This would seriously damage the Institute's ability to raise private sector funds. It would also damage our relationship with the federal government. Federal involvement, which is crucial to the success of NIBS, is predicated on the support and involvement of Congress and the private sector.

However, aside from the funding issue, there are steps Congress can take to further the objectives outlined in NIBS' authorizing legislation. Formally requesting advice and recommendations from the Institute on matters of building sciences, technology and regulations would enhance the stature of the Institute, and would encourage more active participation by the federal government and the private sector. Congress could also direct the Institute to undertake specific projects, as was done with lead-based paint, regulating modular housing, and the rehabilitation guidelines for housing.

Although NIBS' authorizing legislation encourages participation by the federal government in the activities of the Institute, this participation has not been consistent from agency to agency. Congress could take direct or indirect steps to encourage more active participation by certain federal agencies. Many agencies cannot even pay membership dues to the Institute due to the internal regulations of the agency. If Congress were to require or encourage membership in the Institute by federal agencies dealing with construction or building related programs, the Institute would be a much more viable organization, and could certainly attract additional private sector participation. This would improve NIBS' lines of communication with Federal agencies and improve its ability to serve the Federal government.

NIBS' authorizing legislation encourages federal agencies to request appropriations for general support grants for the Institute. For a variety of reasons, including an overall reduction in the availability of funds for grants, this type of federal support has not been forthcoming. Actions by Congress to provide for such grants or otherwise would be helpful.

Finally, and perhaps most important, NIBS' authorizing legislation was written prior to the Competition in Contracting Act. This act limited the ability of federal agencies to issue sole source or non-competitive contracts. However, exceptions are permitted. One such exception is when sole source contracting is authorized by legislation. However, many agencies have adopted rigid policies which virtually exclude sole source contracts, even when they are in the best interest of the nation or the government. Further, the authorizations and justifications required to use existing exceptions are burdensome and time consuming, further discouraging non-competitive or sole source contracts.

Although NIBS' authorizing legislation authorizes agencies to contract with the Institute when deemed appropriate by the responsible federal official involved, the contracting branches of some agencies still are not inclined to issue contracts, even when requested by their own program officials. The Institute believes that this stance is contrary to the intent of our authorizing legislation, and often deprives the federal government of a tool intended by Congress to address the issues related to building sciences, technology and regulations.

The Institute has attempted to resolve these problems at the federal level, by requesting a policy statement from the Office of Federal Procurement Policy. Although discussions have been positive, no statement has been released. Such a statement would help NIBS provide the advice and guidance to federal agencies as outlined in its authorizing legislation. If Congress were to clarify its intent as outlined in the Institute's authorizing legislation and express its support of such a statement to OFPP, this problem could probably be resolved.

Alternatively, Congress could amend the Institute's authorizing legislation to provide specific exceptions to the Competition in Contracting Act. The Institute has noticed that more recent legislation often contains exceptions or waivers to existing procurement laws, as is the case with proposed bill S.1479.

Question. Your 1987 annual report said that NIBS was seeking funds from charitable trusts and organizations "to establish an endowment in order for it to continue to be responsive and authoritative when requests for information are received, regardless of whether these requests emanate from the public or private sector." Your 1988 report said the endowment had been created.

- Was this in anticipation of an eventual termination of Federal funding?
- What has been your success in establishing an endowment fund of an adequate amount?
- Where does it appear in your financial statements.

Answer. The choice of the word endowment in the annual reports is probably a mistake, as it is not meant to imply the creation of a separate accounting entity which receives and manages funds for the purpose of providing a long term, stable source of income to support the operations of an organization. What was meant is that a private sector funding program, designed to provide annual general support grants, was viewed as necessary. An endowment, as outlined by your question, does not currently exist.

The concept of an actual endowment has been discussed. However, the Institute believes based on a recent study that such a program is not feasible at this time, and that the Institute's best opportunities to obtain private sector support are to solicit funds for specific projects and for general annual support.

The Institute has been somewhat successful in securing project support grants and general support grants. Over the last four years, $1.25 million dollars was raised from these types of donations. However, this figure would have to be significantly increased to replace Congressional funding. Currently, the Institute's board is considering ways to generate additional private sector support funds.

Question. Your financial statements separate expenses between "contracts and grants" and "institute programs and related activities." Could you clarify that distinction? Is the latter unfunded or partially funded studies?

Answer. Institute activities which are undertaken on a contract or restricted grant basis are classified under "contracts and grants". All other activities, including projects which are funded from other than external sources such as membership and council activities, meetings, publication sales, and public information activities are classified as "Institute programs and related activities".

Question. It might be helpful if you could clarify just how your various projects are selected and funded. We know that some are contracted by Federal agencies. How about the others? Do associations request them and offer funding, or do you identify them and seek funding? Are some done on NIBS' own initiative without obtaining specific funding for them?

Answer. All projects undertaken by the Institute must be approved by the Board of Directors, except for those undertaken by the Building Seismic Safety Council (BSSC). BSSC contracts are approved by the BSSC Board of Direction. Projects are initiated from a number of sources. One source is, of course, federal construction agencies which are familiar with the Institute and are aware of our consensus process. Agencies contact the Institute and we in turn review their proposed task to ascertain whether or not it falls within the mission of the Institute and is a task that cannot be better performed by a existing private or public organizations.

For the most part, NIBS' projects require a consensus of the building community, for which our consensus process is utilized. For example, the Consultative Council and the Board of Directors, both have planning committees which are responsible for assisting the Institute in identifying emerging issues and developing projects to meet these issues. Members of the Institute, and specifically members of the Council and Board of Directors, provide input to these committees. In addition, a number of potential projects are identified by the Institute's technical staff and are brought to the attention of the committees for development into project proposals for consideration by the Board of Directors for approval. Funding for these projects may be provided by the Institute, by outside organizations or by a combination of the two. For the past two years, because of the financial situation, the Institute has been reluctant to undertake activities totally funded from internal resources.

A current project authorized by the Board of Directors in November 1989 is the comparing of the life safety standards in the three nationally-recognized model codes with the National Fire Protection Association's Life Safety Code as they pertain to health care facilities. For this project, half the funding is being provided by outside sources and the other half by the Institute. In the case of the planned development of lead-based paint guide specifications, which was authorized by the Board of Directors at the February meeting, the project will not be initiated until funding commitments are provided from outside sources. These outside sources include: trade and professional associations, private organizations, and federal, state, and local governments.

As a result of our improved financial situation, we are undertaking a more formal process for encouraging involvement of Institute members in identifying emerging issues to be addressed by the Institute. This year at our annual meeting in November we plan to devote a significant portion of the meeting to a better understanding of our mission and the establishment of priorities for future activities of the Institute.

Question. In examining your financial statements, it appears your operation breaks down logically into three segments: (1) contract studies, (2) studies done with grants, donations, and the Federal appropriation, and (3) sales of CCB, publications, and seminars. Would you be able to provide us a statement of revenue and expense separated into these three segments?

Answer. The operational breakdown suggested by your question is not accurate for many reasons. This breakdown distorts the relationships among the Institutes contracts, grants, programs, projects and activities, by forcing an arbitrary matching of certain expenses with certain revenues.

All Institute activities are undertaken to further the mission as established in our authorizing legislation, regardless of the source(s) of funds. Sometimes it is possible to find sponsors willing to support specific projects through contracts or grants. Other times, due to the public interest nature of much of the Institute's work, funds are not readily available. In all cases, however, projects are undertaken because of their importance to the Institute's mission.

NIBS' authorizing legislation mandated the creation of a Consultative Council. The Council, along with other NIBS councils, as a direct link to the nation's building community, provide the mechanism to identify and prioritize important technical and regulatory issues, and to address these issues in a consensus fashion. The expenses associated with the councils cannot be arbitrarily severed from contract work. Without its councils, NIBS would not possess the authoritative knowledge which serves as a principal means to identify and carry out contracts or other projects.

It is also inappropriate to separate the expenses associated with printing and distributing publications from the projects (contract or otherwise) which were responsible for the development of those publications. Likewise, meetings and seminars are usually held to disseminate important information developed by projects, or to bring together members of the building community to identify and prioritize issues for new projects.

Finally, it is not accurate to match donations and Congressional funds solely with unfunded projects and programs. These funds also are used to defray the costs of some contracts, some meetings, and some publication sales. Further, these funds often are the Institute's source of new working capital, which is needed to provide furniture, equipment, lease improvements, or to finance accounts receivables, deposits, or other assets. Accordingly, these funds do not finance any particular class of expense, rather, they finance the balance sheet assets necessary to undertake all of our activities.

Although an income statement which was based on an arbitrary division of the Institute's activities would be misleading for the reasons discussed above, the information could be presented as follows:

	Contracts and Grants	CCB,Seminars, Publications	Other Activities	Total
REVENUES	$1,573,591	$ 901,202	$ 892,086	$3,366,879
EXPENSES	1,679,609	812,804	539,443	$3,031,856
SURPLUS/ (DEFICIT)	$(106,018)	$ 88,398	$ 352,643	$ 335,023

Question. As we read your financial statements, you have fixed costs, i.e., costs incurred regardless of program activities, of about $1.2 Million. Is that right? Could you provide for the record a more precise listing of your fixed costs?

Answer. The concept of fixed cost, as it relates to variable or marginal costs, is difficult to apply to organizations which do not manufacture tangible products, but produce services instead. The concept is even more difficult to apply to non-profit organizations.

Fixed costs are traditionally costs which do not change regardless of the level of output. Organizations which provide services do not have a standard method for measuring their output. With non-profits, this problem is even more difficult, because often, the output of such an organization can only be measured in terms of benefits to society at large, not to individual clients, customers or stock holders.

Service organizations in general classify costs as either direct (i.e. identifiable on a project by project basis), or indirect (i.e. those which benefit many projects but cannot be readily charged on a project by project basis). Indirect costs are generally allocated to projects using some standard measurement (e.g. direct labor hours). However, indirect costs are usually as variable as direct costs. Service organizations generally do not have large fixed costs, if any. Most expenses are personnel related, which can rapidly be adjusted to meet the demands of the market.

In this regard, the Institute really does not have any fixed costs. All costs are incurred in furtherance of the mission as outlined in the authorizing legislation. As revenues are more or less available to undertake activities in support of this mission, expenses will adjust accordingly. It does not make sense to relate costs to the fulfillment of a mission. In non-profits, expenses follow revenues, rather than the other way around.

The authorizing legislation does not require any statutory activities by the Institute, which might require a fixed amount of funds. The legislation does create a board, and authorize travel expense reimbursement, and compensation at $100 per day. However, these expenses will vary according to how often the board chooses to meet, and how many members attend. The legislation also mandates the creation of a Consultative Council, but this council is a voluntary body.

Question. Could you briefly comment on the following items noted in a review of your financial statements:

- o Seemingly unusually large amounts of cash ($619,000) and accounts receivable ($700,000).
- o An allowance for doubtful accounts ($60,000), even though they are presumably Federal contractors.
- o Deferred revenues of nearly $200,000.
- o A nearly $400,000 increase in overhead in 4 years (from $589,000 in 1986 to $970,000 in 1989).
- o Relatively significant outlays for furniture in 1987 ($102,983) and 1989 ($98,283).

Answer. The balance of cash on hand, ($619,000) represents 21% of our budget for FY 89, and is actually lower than the average balance of cash for the preceding three years, which averaged 27% of our budget for those years. Since the average non-profit organization maintains cash reserves equal to 45% of their budget to provide adequate working capital, the Institute's balance of cash is actually quite small. Not only do non-profits have to maintain cash to cover current operating expenses, but they need the liquidity to finance new programs and capital expenses. Non-profits cannot raise cash by issuing equity or long term debt instruments, so it is important to maintain adequate cash balances to protect against future downturns in the economy or other events which could result in lower revenues.

Over the last four years, accounts receivable have averaged 37% of our contract income. For FY 89, receivables averaged 46% of contract income. The increase is due primarily to new contract work. Often, it takes several months before any initial payments are made on new contracts. As payments occur, the balance of our receivables will decrease to more historical levels.

The allowance for doubtful accounts relates to a specific receivable, which was written off in FY 89. Generally, the Institute does not maintain an allowance for doubtful accounts, since the vast majority of its receivables are due from the U.S. Government.

The deferred revenues of $197,000 represent the future liability associated with the fulfillment of subscriptions to the CCB. An annual subscription to the CCB consists of four disks, which contain updated information and are sent to subscribers quarterly. Although payment for the subscription is made up front, the revenue is recognized as the subscription is fulfilled.

As noted in an earlier question, most expenses incurred to undertake programs can be classified as either direct or indirect costs. In 1986, indirect costs, as a percentage of direct costs, were 72%. In 1989, indirect costs were only 47% of direct costs. Indirect costs have actually declined in the last four years on a percentage basis. The increase in the absolute value of these costs is attributed to increased activities by the Institute.

Outlays for furniture and equipment are up-front costs, which are amortized over the life of these assets. These outlays do not occur on a regular basis, but occur in bunches as needed. For example, the Institute moved into new office space last year. Significant expenses to improve the leased space, such as for carpets, kitchen, modular furniture for open spaces, etc., were needed. The Institute also had to make significant investments in computer equipment during the last few years, particularly to support our CCB program.

PRIVATE SECTOR USE OF NIBS

Question. In previous hearings, the Institute stated that discontinuance of Federal funding would also result in a reduction of private sector contributions, as the private sector sees their contributions triggering a Federal match. While this seems logical, we note that private contributions are down considerably from last year, and it appears that your contracts are all from Federal agencies as well. Excluding "sales" (seminars and sales of publications), your primary sources of revenue in 1989 were $2.1 Million from Federal contracts and the congressional appropriation, and $ 354 thousand in membership fees, donations, and nonfederal grants/contracts. Thus, the Federal government is apparently funding 85 percent of your study efforts. Why wouldn't various associations, state and local government, etc., have needs that they would be contracting for?

Answer. As noted, private sector contributions were down last year. It is significant to note that the Institute was not certain of continued Congressional funding until early fall, which was near the end of the fiscal year. Accordingly, NIBS was not able to use the concept of matching federal funds as an incentive to potential donors during the year.

NIBS does recognize the need to expand efforts to obtain private sector support grants, and is actively pursuing initiatives designed to reach this goal.

As a national institute addressing issues of national and public interest, it is not surprising that the bulk of the Institute's funds would come from the federal government. In fact, NIBS' authorizing legislation specifically encourages federal use of the findings and recommendations of the Institute, and encourages federal support through grants and contracts. There are fewer instances where private associations, organizations, or even state and local governments would need specific services from the Institute, and it may be inappropriate in some instances to provide such services. The Institute was not created to provide specific benefits to any one interest group. Rather, we were intended to serve the nation and the public interest.

Private support is provided through NIBS' private sector members' voluntary involvement in its project committees. The value of time, knowledge, and travel costs has been estimated to exceed one million dollars annually.

The Institute is committed to more aggressive efforts to seek future funds from the private sector and state and local governments.

Question. Do your grants, donations, and membership fees come primarily from builders, associations, government, or what?

Answer. Grants, donations and memberships come from the following sources:

	Membership	Grants/Donations
Consumer, Academic, Media	10.4%	3.9%
Architects	9.4%	-0-
Engineers	9.6%	-0-
Federal Government	6.4%	-0-
State/Local Government	12.8%	-0-
Building Construction	8.1%	-0-
Labor Organizations	2.5%	5.3%
Housing	6.0%	6.9%
Building Products	19.7%	69.0%
Standard Writing Organizations	2.7%	7.3%
Real Estate, Finance, Insurance	3.9%	4.3%
Research and Testing Organizations	8.5%	3.3%
Total	100%	100%

Question. Further, your financial statements show both restricted ($141,192) and unrestricted ($99,744) donations. Does that mean a lot of your private sector support has "strings attached?"

Answer. As explained earlier, projects are selected using procedures designed to ensure that the work to be undertaken is consistent with the Institute's mission and has a high priority in relation to all of the other projects that have been identified. After a decision is made to undertake a project, an effort is made to obtain private and public sector support funds to underwrite the cost of the project. Private sector funds which are given to NIBS for a specific project are classified as "restricted" donations to distinguish these funds from "unrestricted" or "general support" funds. This classification is essentially the same as matching contract or grant income to a specific project.

The bulk of our restricted support during the last year was to fund efforts to develop a new test method to assess the toxic smoke hazards of building products and components during a fire. No organization has tied its contribution for the program to assurances that the procedure will yield test results favorable to the organization's products. One of the many valuable features of the consensus process is that it is usually clear when a special interest is trying to sway the outcome of project for such purposes. Further, the Institute agreed at the start to submit the test procedure to the voluntary consensus procedures of the American

Society of Testing and Materials (ASTM) and the National Fire Protection Association (NFPA) for processing as a nationally recognized voluntary consensus standard. This illustrates the many ways NIBS delegates to existing building community organizations.

LEAD-BASED PAINT STUDY

Question. Regarding concerns by others that your study ignored such things as the cost implications of your recommendations, it might be useful to know what it was that you contracted with HUD to do. Has HUD ever expressed any views that NIBS' product was not what it wanted?

Answer. The scope of work for the Lead-Based Paint (LBP) Project is attached from the HUD/NIBS contract. As can be seen, definitive information about costs was not included. This was not an oversight. First, it was recognized that extreme variations existed in 1988 (and today) in the cost of LBP testing, abatement, and clean up services. Thus, the cost of such services in one locality (where there was a cadre of trained contractors and labor) would be vastly different than a locality where such capability did not exist. Without a data base of information identifying prevailing conditions across the country and with good knowledge that such variations existed, the committee leaders and staff recognized that it was not possible to include definitive and accurate cost estimates for the many techniques included in the report. Notwithstanding, all involved recognized the need for such information; thus, insofar as possible, the committee did include general information on costs. See attached excerpts from the report which illustrate the cost related information in the NIBS report. Second, HUD was embarking on the Congressionally directed LBP Demonstration Program which was to assess the effectiveness and cost of existing and innovative LBP procedures.

Our contract was with HUD's Office of Policy Development and Research. HUD's General Technical Representative and representatives from the Office of Public and Indian Housing [illegible] part in the project committee activities. It is our understanding that the cognizant and involved HUD representatives were satisfied with the report. In the context of this question, it is appropriate to consider what was possible at that point in time, what HUD contracted for, other needs such as: cost, funding sources, potential competition for CIAP funds, liability, the need for and the cost of relocation of tenants, training of workers and contractors, identifying owners' responsibilities, the effectiveness and accuracy of testing devices, the efficiencies and hazards associated with various abatement options, the lack of health standards for workers and clearance for abated units, and the many political objectives associated with such an issue.

Question. Your "consensus approach" to reporting has also been criticized. Do you believe that the consensus approach is flawed? Have other approaches been considered by you or proposed by your critics?

Answer. It would be easier to respond to specific criticisms about NIBS' consensus approach. We have found that some criticisms are really political or economic concerns. For example, some members of NIBS' lead-based paint project committee raised concerns about cost issues only about a month before the report was due under our contract with HUD, even though the information was made available to committee members three months earlier in the initial draft. When the committee was unable to accommodate the concerns due to scope, lack of data, and schedule problems, it is possible the consensus approach was criticized.

While there is no voluntary consensus process in the world that is perfect and universally endorsed, the Institute's consensus process is patterned after programs which have evolved through the nation's voluntary standards organizations over the past century. A copy of NIBS' procedures, which have been developed over the past twelve years is attached. As can be seen, the procedures require a balance of public and private interests, voting on all major decisions, an opportunity for all to take part, an opportunity for several levels of appeal, and allow minority opinions for those who are unable to convince the committee of their position.

Our members, through our oversight procedures frequently recommend revisions to our procedures. Through this avenue the Institute's consensus process has matured to a process that we believe serves the nation better than any other approach. Since the Institute is not a regulatory agency and it's recommendations do not have the force of law, they are most effective when all interested parties agree upon a consensus approach which serves the public interest. The NIBS consensus process achieves this objective.

Question. I understand NIBS' procedures provide for NIBS making additional appointments to committees if a lack of balance is seen. Was this considered or done in the case of your lead paint study?

Answer. Of the 67 members of the Lead-Based Paint project committee 8 were appointed. They were not members of the institute and were appointed for the purpose of achieving balance and representation or for their expertise.

Question. Could you provide a list of the membership of the lead-based paint project committee, and identifying the organizations represented?

Answer. Attached is the list of NIBS' Lead-Based Paint project committee members indicating with asterisk which of them were appointed.

SCOPE OF WORK

GUIDELINES FOR
LEAD-BASED PAINT IDENTIFICATION AND ABATEMENT

Introduction

The Department of Housing and Urban Development (HUD) is required under the terms of Section 566 of the Housing and Community Development Act of 1987 (the Act) to conduct a comprehensive testing and abatement program addressing lead-based paint hazards in the Nation's Public and Indian Housing stock; this program is to be completed within five years after the publication of new regulations also mandated by the Act (June 6, 1993).

In the ten years since HUD completed its earlier lead-based paint testing and research program, an extensive body of experience and research has shown that improper abatement can increase the lead poisoning hazard. Information on the state-of-the-art methods for testing and abatement is needed to assure that this testing and abatement program will be properly carried out.

Objective

The objective of this project is to produce a "how-to" manual for the safe, effective, and efficient identification and abatement of lead-based paint hazards in Public and Indian Housing. The manual shall address the following issues:

Testing
Abatement
Cleanup and Final Inspection/Testing
Disposal

Each of these issues is discussed in more detail under Scope, below.

Definitions

As used in this Scope of Work and in the manual, certain terms have specific meaning, as follows:

Lead-Based Paint: Paint which contains 1 milligram per square centimeter (mg/cm^2) of lead, as measured by an x-ray fluorescence (XRF) analyzer.

Property: A single or multifamily building constructed before 1978.

HEPA: High Efficiency Particulate Air, filter systems which will collect fine dust particles.

Scope of Work: Lead-Based Paint Identification and Abatement

Applicable Surfaces: All interior and exterior painted surfaces in housing constructed prior to 1978; the Act defines these as "accessible intact, intact, and non-intact exterior and interior painted surfaces."

Abatement: Removal of the lead-based paint hazard by (a) removal, (b) replacement, or (c) encapsulation.

Removal: Removing the paint film by approved techniques.

Replacement: Replacing painted items such as door and window trim and similar surfaces with new materials.

Encapsulation: Covering the painted surface with appropriate materials which will prevent any contact with lead-based paint and dust. A new coat of paint is not an acceptable means of encapsulation.

Scope

The manual shall include the following activities:

a. Testing: Procedures for testing interior and exterior painted surfaces with XRF analyzers. Procedures shall address calibration, use of lead-based paint standards, handling varying types of substrates, reporting test results, safety and radiological regulations on the use of XRF equipment, and other safety measures. This includes chemical testing procedures.

b. Abatement: Current methods used in abating lead-based paint, including removal, replacement, and encapsulation. Procedures for protecting surfaces and surrounding areas during abatement. Provide guidance on proper personnel safety methods. Address issue of coordinating lead-based paint abatement activities with comprehensive modernization and maintenance programs. Describe available products, materials, equipment, and procedures used for abatement.

c. Clean-up and Final Inspection/Testing: Cleaning up the abated area after abatement is complete. Outline appropriate use of vacuum cleaning, scrubbing and mopping, and post-abatement testing such as air sampling, wipe testing, and XRF testing.

d. Disposal: Procedures to assure that waste generated in the abatement process is handled and disposed of in accordance with relevant Federal regulations.

Scope of Work: Lead-Based Paint Identification and Abatement

Tasks

The project will be composed of the following tasks:

Task 1: Program Plan: Develop a specific plan providing a detailed description of activities and schedules for the project; submit within two (2) weeks after award. This plan must be approved by the GTR before proceeding.

Task 2: Project Committee: Identify and recruit a project committee to provide guidance and review services for the project and products. The first project committee meeting should be held within ~~four (4)~~ weeks of contract award.
seven (7)

Task 3: Subcontracts: Develop work scopes and execute subcontracts as necessary with consultants to carry out the project work. This shall be complete within six (6) weeks of contract award.

Task 4: Draft Manual: Develop a draft text for the manual and have it reviewed by the Project Committee and by the HUD GTR; this can be done in sections if more expeditious. This draft shall be completed within eighteen (18) weeks of contract award.

Task 5: Second Draft Manual: Based on reviews of the draft text, prepare a revised draft for review by the Project Committee and HUD. The second draft shall be completed within twenty-one (21) weeks of contract award.

Task 6: Final Manual: Revise the draft text to incorporate comments; submit to Project Committee for written ballot. The final manual shall be completed within twenty four (24) weeks of contract award.

Task 7: NIBS Approval: Following the Task Force ballot, submit the document for NIBS oversight final review and approval, and submit to HUD. This shall be completed within twenty-six (26) weeks of contract award.

Regulatory Requirements

The manual shall reference the lead-based paint regulations issued by the Department for the Office of Public and Indian Housing on June 6, 1988, 53 FR 20790, and, to the extent they are applicable, 51 FR 27774 (August 1, 1986), and 52 FR 1876 (January 15, 1987). Worker safety, family protection, and waste disposal requirements shall meet the appropriate regulations of the Occupational Safety and Health Administration (OSHA), the Department of Health and Human Services (HHS), and the Environmental Protection Agency (EPA).

Scope of Work: Lead-Based Paint Identification and Abatement

Audience

The audience for the manual will include directors and maintenance personnel of Public and Indian Housing Agencies, State and local government officials, design professionals, contractors and construction workers, and HUD Regional and Field Office staff.

Consensus Approval

The manual shall be reviewed and approved by the National Institute of Building Sciences using established NIBS consensus procedures.

* * * * *

Excerpts from NIBS' LBP Testing, Abatement, Cleanup and Disposal Guidelines

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The Guidelines describe the most effective and safe abatement procedures, while recognizing the need for more cost-effective techniques and advances in abatement technology during the next several years. They also recognize that certain situations may require alternative abatement options based on meeting criteria such as the law, protection of workers and residents, meeting set clearance levels and control of lead dust prior to repainting.
[Page 3 of NIBS' LBP Guidelines]

xxx xxx xxx

4.5.3.3 Cost Analysis

Once the methods of abatement have been selected, the cost of the abatement work only can be estimated using techniques for estimating construction work. In addition, other costs to be considered include temporary relocation of residents and their belongings, the containment of dust and debris, worker protection, and the disposal of waste. Abatement will often include many steps that would otherwise be part of comprehensive modernization. Where this is the case, abatement costs should be the costs of what needs to be done above and beyond usual modernization work (e.g., costs of worker protection and disposal).

In determining the "best" method of abatement of a given surface, least cost will certainly be a factor. Any of the better construction and renovation cost estimating guides provide adequate cost guidance for installation. However, factors other than first-cost should be considered. For instance, if existing lead-painted wood trim is of a simple design and could be aesthetically replaced with a standard shape instead of a milled shape, removal of the existing trim may be the least costly method. If the trim is large and ornate and aesthetically desirable, then paint removal may be the least costly method.

Another factor to be considered is the cost of waste disposal. Encapsulation of lead paint avoids some of the costs of waste disposal. However, the costs of special handling in the future must be considered if a need arises for major renovation involving the breaking of encapsulated surfaces.
[Page 79 of NIBS' LBP Guidelines]

xxx xxx xxx

Table 4.3: Methods of Lead-Paint Abatement - CAUTION: DO NOT apply these methods without reviewing Section 4.8.1.

METHODS	ADVANTAGES	DISADVANTAGES	APPROPRIATE APPLICATIONS	INAPPROPRIATE APPLICATIONS	COMMENTS	SKILL LEVEL	RELATIVE COST
Encapsulation Materials 1 Gypsum Dry Wall	durable, compatible with modernization and trim abatement	quality finishing work needed. Trim must be removed	Any interior wall or ceiling balusters, pipes partitions, only option for deteriorated walls and ceilings	limited surface areas and wood trim	encapsulant of choice for for interior walls, ceilings	High	Medium
2 Melamine Coated Hardwood	easily cleanable, serviceable, prefinished, preformed strips cover vertical seams	needs proper installation for durability	walls & ceilings in bathrooms, kitchens, vestibules/foyers, and skylights	all applications but kitchens & bathrooms	sealing of seams necessary for dust control	Medium	Medium
3 Plywood Paneling	quick installation, prefinished surface	may not meet fire codes, needs proper installation for durability	interior walls	kitchens, bathrooms	sealing of seams necessary for dust control	Low	Low
4 Tile - Ceramic Stone	durable, easily cleanable, compatible with modernization	Experienced installer needed	bathrooms, kitchen walls, interior and exterior floors			High	High
5 Plaster Veneer with bonding agent	None	quality finish needed durability unknown and questionable	Limited use on interior walls and ceilings in good conditions	exterior		High	
6 Fiberglass: matt, fabric & water soluble casting wrap	quick installation; easy to handle; may not need painting	may need maintenance; some surface preparation needed	interior walls & ceiling if substrate is in good condition; paint should be generally intact; wrap appropriate for pipes	walls & ceilings with deteriorated substrate or paint; trim, floors and exterior surfaces	different rigidity & thickness available; special adhesive must be used; water soluble casting wrap for pipes should be coated	Low	Low
7 Vinyl coated fabric, prepasted wallpaper	quick installation; easy to handle	durability questionable; some surface preparation needed; may need maintenance	interior walls in good condition with intact paint	walls with deteriorated substrate or paint; exterior walls	material may act as a vapor barrier	Low-medium	Medium
8 Wood/Plywood	durable		door jambs, exterior porch ceilings boxing in of columns, balusters, pipes, exterior walls & floor underlayment	encapsulation of all other trim	certain types of paneling release formaldehyde gases and use should be limited	Medium	Low
9 Jute Fabric/gypsum		questionable washability and resistance to abrasion; may need maintenance	well maintained building; tight paint; substrate in good condition	poorly maintained building; kitchens, bathrooms		Medium	

Table 4.3, continued... CAUTION: DO NOT apply these methods without reviewing Section 4.4.1.

METHODS	ADVANTAGES	DISADVANTAGES	APPROPRIATE APPLICATIONS	INAPPROPRIATE APPLICATIONS	COMMENTS	SKILL LEVEL	RELATIVE COST
10 Stucco	durable		exterior walls brick, cement	interior surfaces		Medium	
11 Exterior siding	compatible with modernization; quick installation durable, adds insulation, low maintenance	may require maintenance	exterior walls	interior surfaces	consider use of breathable membrane barrier or sheathing under aluminum or other siding	High	High
12 Rigid vinyl	durable		window tracks, jambs			Medium	
13 Aluminum or other metals	durable		exterior wood trim, all jambs, metal door frames, window tracks	interior wood trim	consider use of breathable membrane barrier or sheathing under aluminum or other siding	Medium	
14 vinyl: tiles & sheets, treads	easily cleanable, durable if quality product is used.		floors, stairs		subflooring must be in good condition or replaced	Medium	Medium
15 Carpeting		not easily cleanable, collects dust	install over underlayment	installation directly over lead-painted surface	temporary measure only if installed directly over lead-painted surface	Low	
16 Wood floor coverings: strip, parquet parquet	easily cleanable, durable		install over underlayment	kitchens, bathrooms		Medium	High
PAINT REMOVAL							
17 Heat Gun		produces lead dust; potential fire hazard; must have adequate power; possible glass breakage.	limit use to small areas; or when replacement, encapsulation and off-site methods are impractical; thick paint layers on flat surfaces	thin paint layer on ornate surfaces, large areas, walls, floors, ceilings	do not use sanding as final step; specialized attachments available;	Low	
18 On-site caustic stripper	can strip ornate, decorative surfaces	liquid waste; potential disposal problem; large quantities of residual lead left on surfaces, neutralization needed; chemical burns of skin, eyes	ornate & flat metal substrates; plaster; hard wood substrates; limited surface areas or when replacement, encapsulation and off-site methods are impractical	aluminum & soft wood substrates; walls & other large surface areas	very difficult to remove leaded residue; worker experience critical for success; may contain methylene chloride - a suspected neurotoxin	Low	Medium

Table 4.3, continued... CAUTION: DO NOT apply these methods without reviewing Section 4.4.1.

METHODS	ADVANTAGES	DISADVANTAGES	APPROPRIATE APPLICATIONS	INAPPROPRIATE APPLICATIONS	COMMENTS	SKILL LEVEL	RELATIVE COST
19 On-site organic solvents		special worker protection needed;potential fire hazard	limited surface areas; touch up work; metal substrate; thin paint; or when replacement, encapsulation & off-site methods are impractical layers	walls, thick paint layers; large surface areas.	may contain methylene chloride - a central nervous system depressant; need adequate ventilation; don't sand after	Low	
20 Off-site paint removal	completeness of paint removal	must wash surface to remove residue	trim, windows, doors, grilles both metal & wood substrates	fixed components; where removal or reinstallation of component would be difficult	See Table 4.1 Arrange for stripping company to wash surfaces	Medium	
21 Sander with HEPA filtration		useful only on certain flat surfaces	flat surfaces; jambs only	narrow, ornate surfaces	potential for production of fine particulate as not all dust is vacuumed into filter; may need air compressor.	Low	
22 Abrasive vacuum blasting	contains & separates waste	potential damage to surface;	exterior surfaces	interior surfaces	specialized equipment needed - attachments must match surface configurations.	Medium	
23 Water blasting		high volume of liquid waste produced; difficult to contain & collect liquid waste	exterior surfaces	interior surfaces	waste must be contained; collected treated and disposed of; specialized equipment needed.	Medium	
24 Scraping with misting		produces lead dust; may damage substrate	wood trim; limited surface areas; when replacement, encapsulation & off-site methods are impractical	large surface areas such as walls, floor, ceilings	do not use sanding as finishing step	Low	

[Pages 98-101 of NIBS' LBP Guidelines]

XXX XXX XXX

DO NOT USE:
- Open-flame torch
- Dry Scraping without misting
- Grinding or Sanding without HEPA Filtration
- Uncontained water blasting
- Open Abrasive blasting

LIMITED USE METHODS:
- Drop Ceilings
- Carpeting alone
- HEPA Sander
- Solvents
- Scraping with misting
- Heat Gun
- Plaster Veneer with bonding agent
- Caustic chemicals

CONSULTATIVE COUNCIL

ORGANIZATIONAL RULES AND PROCEDURES

ARTICLE I. MISSION, FUNCTION AND ACTIVITIES

Section 1. Mission. The mission of the Consultative Council is to advise and support the Institute in accomplishing its objectives; to be the principal vehicle through which the Institute achieves communication with the building community and its consumers and users; to assist in evaluating activities and programs; to develop and consider recommended policies and positions related to building technology, standards, codes, regulations, land use for building construction and other practices that affect buildings, and to help in establishing priorities among the activities presented for Institute attention.

Section 2. Functions. The Consultative Council shall, with the approval of the Board of Directors explore matters within the sphere of interest of the Institute; supervise consensus project committees and receive their reports; submit all findings and reports, and make recommendations, if and when appropriate, to the Board of Directors. The Consultative Council shall initiate no undertaking requiring the commitment or expenditure of funds without specific previous authorization bv the Board of Directors.

Section 3. Activities. The Consultative Council shall conduct such hearings, conferences, studies and other activities as it shall deem appropriate and/or requested by the Board of Directors. All findings and reports shall be submitted to the Institute's Board of Directors with the comments and recommendations of the Consultative Council.

ARTICLE II. ORGANIZATION

Section 1. Composition. The Consultative Council shall consist of thirty-six members of the Institute who shall be elected for terms of three years pursuant to Section 2 and Section 3 of this Article.

Section 2. Election. Twelve members, one from each membership interest classification, shall be elected each year for a term of three years. No member of the Consultative Council shall be eligible to serve more than two consecutive three-year terms. An individual who has served two consecutive three-year terms on the Council shall again be eligible for election after the member has been off the Council for at least one year.

Section 3. Nominating and Voting Procedures.

3.1 The Nominations Committee shall, in June, issue a call for nominations to fill Consultative Council seats due to be vacated at the end of the fiscal year, and for Institute Division chairmen.

3.2 The nominating period shall be thirty days.

3.3 The Nominations Committee shall meet promptly after the close of nominations to screen and select those who are to be entered on the ballot. Normally, selections shall be from those nominated; however, when there are insufficient nominations in a category or the Nominations Committee believes those nominated are unqualified, other selections may be made directly by the Nominations Committee. Persons so selected must be contacted by the Nominations Committee to ascertain their willingness to serve prior to being placed on the ballot.

3.4 One or more persons shall be listed on the ballot for each vacancy with a provision for write-in candidates.

3.5 Ballots shall be mailed to the Institute members with brief biographical sketches.

3.6 The election period shall be thirty days with ballots due to be returned to NIBS by mid-August.

3.7 The Consultative Council chairman shall select four persons not standing for election to serve as tellers to count the ballots before September 1.

3.8 The Consultative Council and all candidates shall be notified by the Council chairman of the election results.

Section 4. Vacancies. Vacancies in the Consultative Council may be filled by the Consultative Council, pending election for the unexpired term at the next Annual Meeting.

In the event of a vacancy on the Consultative Council, the Nominations Committee shall give notice of its recommendation(s) to the members of the Consultative Council for filling the unexpired term at least ten days prior to the next scheduled meeting. A vacancy shall be filled by a majority vote at a duly constituted meeting.

Section 5. Meetings. The Consultative Council shall hold its Annual Meeting, at the call of the chairman, within thirty days of the Annual Meeting of the Board of Directors, and at least three or more other meetings during the year, and such other meetings as the chairman shall deem necessary, upon the chairman's call and ten days written notice. Meetings shall also be called at the request of a majority of members of the Consultative Council.

Section 6. Terminations. If a member of the Consultative Council misses three consecutive meetings without a valid reason as determined by the Council chairman, the termination of the membership of such member shall be considered by the Council. A majority vote of all members is required to terminate a member.

Section 7. Conduct of Business.

7.1 Meeting Quorum. Meetings of the Consultative Council shall be duly constituted and officially ready for business when a simple majority of members are present. If a quorum is not present, actions may be taken subject to confirmation by letter ballot.

7.2 Proxies and Alternates. Proxies and alternates shall not be permitted at meetings of the Consultative Council.

7.3 Visitors and Guests. Any individual, whether a member of the Institute or not, shall be entitled to attend meetings of the Council or any of its administrative committees except when closed sessions are duly held. Such visitors and guests may participate in meeting discussions but are not eligible to make motions, second motions or to vote.

7.4 Voting Privileges. Each participating Council member present at any meeting of the Council shall be entitled to one vote on any issue brought before the Council. The Council chairman may vote only to break a tie vote.

7.5 Voting Procedures. In a scheduled meeting of the Council, a simple majority of votes cast by the members in attendance shall constitute due and proper procedure to validate the actions of the Council. Vote abstentions shall be counted in the total of votes cast in determining compliance with the simple majority rule. All members present at meetings of the Council must cast a vote aye, nay, or abstain on motions before the Council.

7.6 Robert's Rules. Where these rules and procedures are in conflict with Robert's Rules of Order these rules and procedures shall prevail. Where an issue is not covered by these rules and procedures Robert's Rules of Order shall prevail.

ARTICLE III. Officers

Section 1. Officers. The officers of the Consultative Council shall be the chairman, the vice chairman and the secretary, who shall be members of the Consultative Council.

Section 2. Elections. The aforesaid officers shall be elected annually by the Consultative Council using the following procedures:

2.1 With permission of the individual, the Nominations Committee shall list eligible incumbent officers as candidates in their present or a higher office.

2.2 The Nominations Committee shall, having checked with potential candidates as to their availability, prepare a list of candidates with at least one name but preferably two for each position.

2.3 The Nominations Committee shall distribute to the Consultative Council at least 30 days before the Annual Meeting its list of officer candidates along with biographic information.

2.4 Immediately following the adjournment of the Annual Meeting, the incumbent Chairman shall call a meeting of the new Council and shall preside over the recognition of the retiring Council members and seating of the new Council members. Following the seating of the new Consultative Council, nominations shall be accepted from the floor for each of the officer positions. When nominations are closed, the election of council officers shall be by majority vote and by secret ballot. The incumbent chairman shall appoint three persons not standing for election as tellers to count the ballots.

2.5 Following the election process the incumbent Council chairman shall announce the election results and shall turn the gavel over to the new chairman.

2.6 The elected term for any officer is one full year; however, no officer may serve more than two full consecutive terms in the same office. Each shall hold office until a successor has been elected or until the officer resigns or has been removed from office by the Consultative Council.

Section 3. Additional Officers. The Consultative Council may elect such other officers as it may deem necessary, each of whom shall have such authority and perform such duties as the Council may require from time to time.

Section 4. Vacancies. Any vacancy in any office may be filled by a majority vote at any duly constituted meeting.

Section 5. Chairman of the Consultative Council. The Chairman of the Consultative Council shall preside at all meetings of the Council, and function generally as the chief executive officer of the Council.

Section 6. The Vice Chairman of the Consultative Council. In the absence of the chairman, the vice chairman shall act in all respects instead of the chairman during such absence and shall perform such other duties as from time to time may be assigned.

Section 7. Secretary. The secretary shall perform all the duties incident to the office of the Secretary and such other duties as from time to time may be assigned.

ARTICLE IV. STANDING COMMITTEES

Section 1. General. Except for the Steering Committee and Nominations Committee, chairmen and members of standing committees shall be Institute Members appointed by the Chairman with the advice and consent of the Council. The Chairman and members shall be appointed immediately following the annual meeting, and shall serve until the next annual meeting. Standing committees will meet at the call of the Chairman.

Section 2. Steering Committee. The committee shall exercise all of the powers of the Consultative Council between meetings of the Consultative Council, subject to ratification at the next council meeting. Records of all meetings and actions of the Steering Committee shall be maintained and presented at the following meeting of the Council. The Steering Committee shall consist of the Chairman, Vice Chairman and Secretary of the Consultative Council and four additional Council members nominated and elected by the Consultative Council.

Section 3. Nominations Committee. The committee shall be responsible for selecting nominees for Council membership, vacancies and officers in accordance with Article II, Section 3 and 4 and Article III, Section 2 of these Rules. The committee shall consist of a chairman and two other members, nominated and elected by the Consultative Council. An incumbent officer shall not be a member of the Nominations Committee nor shall any member of the Nominations Committee be nominated for any Council office. Nominations Committee members shall have served not less than one year on the Council prior to election to the Committee.

Section 4. Planning Committee. The committee shall be responsible for developing projects for consideration by the Consultative Council, performing planning functions for the Council and assisting in the development of appropriate planning documents for the Institute. The chairman will provide liaison to the Institute's Planning Committee.

Section 5. Annual Meeting Committee. The committee shall advise the Institute on a theme, program and arrangements for the annual meeting; and recommend dates and locations for the next three (3) annual meetings.

Section 6. Operations Committee. The Operations Committee shall consist of at least seven members and be responsible for the overall conduct of consensus projects. Responsibilities include:

6.1 Assuring that the membership of each project committee represents a broad cross-section of appropriate interests, and assuring balance of both active and reviewer members.

6.2 Assuring committee members are correctly categorized in the interest classifications set forth in Article VI, Section 4.6.

6.3 Recommending individuals to serve as an appointed member as needed for expertise or to achieve balance.

6.4 Recommending individuals for project committee chairmen.

6.5 Assuring that project committee activities are conducted in strict compliance with these rules and regulations. The Operations Committee shall especially ascertain that proper voting procedures have been followed and that project committee findings and recommendations represent a consensus.

6.6 Monitoring scope, schedule and budget of project committees and report significant variances to the Council.

6.7 Coordinating, as necessary, Consultative Council projects.

6.8 Serving as an appeals body to hear and/or investigate complaints on possible infractions of these Rules and adjudicate all such matters coming before it.

6.9 Reviewing all reports, resolutions or other written matter emanating from project committees to assure compliance with the assignment and to insure that findings and recommendations conform to NIBS policies and/or authority. Non-complying or non-conforming documents shall be returned, unedited, to the committee stating reasons for rejection and/or recommendations for desired changes. Where differences of opinion between the Operations Committee and any project committee cannot be resolved, such conflict may be appealed to the Consultative Council.

6.10 Reviewing for confirmation the termination of project committee members.

6.11 Recommending which, if any, project committee members should be fully or partially reimbursed for travel expenses.

6.12 At the direction of the Council, draft amendments to the Rules and Procedures of the Council.

ARTICLE V. SPECIAL COMMITTEES

Section 1. Function. Committees may be formed to address subjects of special interest related to the Institute's mission. The committees shall provide an opportunity for members having a common interest to work together under the guidance of the Consultative Council in pursuit of these interests and the objectives of the Institute.

Section 2. Composition. Membership on a special committee shall be open to all Institute Members. The chairman shall be appointed by the Council Chairman with the advice and consent of the Council, and shall be an ex officio non-voting member of the Council. Special committees shall meet at the call of the chairman.

ARTICLE VI. CONSENSUS PROJECTS

Section 1. Consensus Process. The consensus process shall be followed for projects when directed by the Institute Board of Directors. Following is a summary outline of the consensus process.

1.1 Subsequent to a call to the Institute membership for participation in a consensus project, a reasonably balanced and representative committee is established by the Operations Committee. The entire project committee is considered in determining balance and representation.

1.2 A report of project committee recommendations is prepared and submitted with a letter ballot to the project committee. A minimum period of 30 days is allowed for response.

1.3 The entire project committee membership is taken into account when a determination is made of whether consensus has been achieved.

1.4 The steering committee, if any, or the project committee chairman will categorize responses to the ballot.

1.5 All negative ballots are resolved, if possible, at a meeting of the project committee.

1.6 A project committee report is revised and resubmitted, with ballot, to the project committee for as many iterations as needed within an appropriate predetermined time frame.

1.7 Project committee members submitting negative ballots shall be advised in writing of the disposition of their negative ballots by the chairman.

1.8 A minority opinion may be published in accordance with Section 10 of this Article.

1.9 The Operations Committee maintains oversight of the entire process to assure compliance with policies and procedures of the Council and the Institute.

1.10 The Council recommends Institute acceptance.

Section 2. Project Committee. A project committee shall be established when it has been determined by the NIBS Board of Directors that a building community consensus is required.

2.1 A project committee shall consist of an unlimited number of Institute Members. Institute Members desiring participation shall apply in writing in response to project announcements and will become active or reviewer members as they prefer. The Operations Committee shall establish a closing date for membership on the project committee.

2.2 To establish balance or obtain needed special expertise as determined by the Operations Committee, individuals shall be invited by the Consultative Council Chairman to serve as appointed members (active or reviewer) of the project committee.

2.3 Timely notice shall be given of each project committee formation, stating its mission and purpose and offering membership to all interested members of the Institute.

2.4 Project committee chairman shall be appointed by and serve at the discretion of the Council Chairman following consultation with the President and upon receiving the concurrence of the Chairman of the NIBS Board of Directors.

2.5 The vice chairman of a project committee shall be elected by the committee membership. When necessary, the vice chairman shall assume the duties of the chairman and shall perform such other duties as may be assigned by the chairman.

2.6 The secretary of a project committee shall be elected by the committee membership and shall perform duties normally incident to the office, including the preparation and keeping of minutes of committee meetings and other records as may be required by the chairman, and shall perform such other duties as may be assigned by the chairman.

2.7 The project committee chairman may appoint a steering committee to advise and assist in the development of policies and programs for work; provide assistance in the administration of committee activities; assure coordination of the work of the project committee with associated work of other project committees; and generally serve as an oversight group to evaluate the actions and findings of the project committee and its project subcommittees in the execution of the project assignment. A steering committee must be reasonably balanced and representative of the interests involved in the project, subject to concurrence of the Operations Committee.

2.8 An active member of a project committee who has three consecutive unexcused absences from scheduled meetings shall be automatically classified as a reviewer member. An active or reviewer member who has failed to vote on two consecutive written ballots shall no longer be a member of the project committee.

2.9 Upon due notification, the Consultative Council may terminate a project committee for any of the following reasons:

2.9.1 Completion of its assignment.
2.9.2 Unavailability of funds to carry on the work.
2.9.3 The need for the work ceases to exist.
2.9.4 Inactivity.
2.9.5 Serious noncompliance with the Rules.
2.9.6 By instructions of the Board of Directors.
2.9.7 For such other reasons deemed appropriate.

2.10 The duties and responsibilities of a project committee shall be as follows:

2.10.1 Perform all work assigned by the Consultative Council in conformity with the project scope as prescribed by the Operations Committee and approved by the Council.

2.10.2 Conduct its business in strict compliance with these Rules.

2.10.3 Keep accurate records of committee proceedings.

2.10.4 Resolve negative ballots at meetings of the project committee.

2.10.5 Prepare such written reports or resolution as may be required by the work assignments or as may otherwise be requested by the Council and distribute such reports for review and/or ballot to members of the project committee.

2.10.6 Submit all final reports to the Operations Committee for review as to compliance and conformity with procedures and policies.

2.10.7 Maintain the privacy of all reports, resolutions and other written documents until final approval and release of such information for public use is authorized by the Board of Directors.

Section 3. Project Subcommittees.

3.1 A subcommittee chairman and members of a project subcommittee shall be selected from the project committee membership and shall be appointed by and serve at the discretion of the chairman of the project committee.

3.2 Selection for project subcommittee membership shall be based on the expertise and professional experience of the individual members to deal with a specific work assignment. All findings and/or recommendations emanating from the subcommittee are subject to the review and approval of the project committee to which it reports. Subcommittee meetings do not require a quorum and subcommittee reports are not normally balloted.

Section 4. Definitions.

4.1 "Active members" of project committees are those institute members who responded to a call for participation in a project committee by indicating that they would be able to attend project committee meetings and take an active part in discussion and voting at the meetings.

4.2 "Reviewer members" are those institute members of project committees who indicate an interest in participation in the project committee, but are not able to attend meetings and take an active part in project committee deliberations, but agree to review, comment and vote by ballot on project committee reports and documents.

4.3 "Appointed members" are individuals who are not Institute members but who have accepted an invitation to serve on a project committee in an active or reviewer status.

4.4 The term "consensus" used throughout these Rules is the prevailing judgment rendered by a body of people representative of a broad cross-section of impacted or involved interests, balanced so that no single interest can dominate the proceedings and acting under due process to develop a solution to a specific problem or issue.

4.5 Terms used in these Rules such as "balance," "balanced committee," and other similar wording shall all mean that the membership of each and all committees, unless otherwise noted herein, shall consist of individuals representing the broad interests of the Institute. Balanced shall not be construed to necessarily require a complete constituency or a numerical proportioning of all the interest groups represented in the Institute.

4.6 Institute Members are categorized in one of the following twelve (12) classifications based on their primary trade, occupational or business affiliation. Representatives of trade and professional associations, and societies are categorized in the interest classification they primarily represent. Consultants, private attorneys and other similar individuals are classified in categories they predominantly serve. The purpose of the "interest classifications" is to insure an appropriate representation of the various interests of the building community in the makeup of the Consultative Council, and for guidance in determining the balance and representation of project committees.

4.6.1 Consumer and General Interest – Consumers, users, academia, media, and public interest groups.

4.6.2 Architects – Architects and related professionals in private practice.

4.6.3 Engineers – Engineers and related professionals in private practice.

4.6.4 Federal Government – Officials and representatives of federal government agencies.

4.6.5 State and Local Government – Officials and representatives of state and local government including code officials.

4.6.6 Building Construction – Building construction contractors, subcontractors and utilities.

4.6.7 Labor Organizations – Building trade unions.

4.6.8 Housing – Builders,developers and housing producers.

4.6.9 Building Materials and Products – Producers, manufacturers and distributors of materials and products used in the building process.

4.6.10 Standards – Standards writing or producing organizations.

4.6.11 Real Estate, Finance and Insurance – Realtors, owners, financial and insurance organizations.

4.6.12 Research, Testing and Other Services – Research organizations, testing laboratories, and other service organizations.

Section 5. Open Meetings. All meetings of project committees and project subcommittees shall be open to visitors.

Section 6. Visitors.

6.1 Visitors who are not members of the Institute may participate in meeting discussion with the permission of the chairman, but are not eligible to make or second motions or to vote. Members in good standing of the Institute, who are not active committee members, are eligible to participate in meeting discussions and to make motions or to second motions, but are not eligible to vote.

6.2 The chairman shall identify and introduce all visitors, determine their membership status, advise them of their rights and privileges, and instruct the secretary to enter their names and business affiliation into the minutes of the meeting.

Section 7. Meeting Quorums.

7.1 Meetings of any project committee will be considered duly constituted and officially ready for business when one third of active committee members are present.

7.2 Meetings of project subcommittees do not require a quorum.

7.3 Any scheduled meeting of a project committee that does not have a quorum of its members present, may be opened at the option of the chairman for purposes of discussion, but shall not be allowed to take any official action. If a quorum is not present at a meeting, actions may be taken subject to confirmation by letter ballot.

Section 8. Voting Privileges.

8.1 All project committee members shall be entitled to ballot on documents and draft reports.

8.2 Only active members are entitled to vote at project committee meetings. Two or more active members representing a single organization or agency shall have one vote at project committee meetings.

8.3 An active member may appoint an alternate who is entitled to full participation and voting privileges in the absence of the active member. Alternates shall be Institute Members.

8.4 At project committee meetings, the project committee chairman shall identify eligible voters at the start of a meeting. Proxies are not permitted.

Section 9. Approval of Report. Final reports shall require approval by written ballot.

9.1 In each ballot of a project committee two thirds majority of the total votes cast by active and reviewer members shall be considered a consensus and shall constitute due and proper procedure to validate the action of the committee. Not less than a majority of those entitled to ballot, including abstentions, must be involved in the vote.

9.2 When balloting to approve a report, project committee members shall cast their votes in one of the following categories:

9.2.1 Accepted
9.2.2 Accepted with comment
9.2.3 Abstain
9.2.4 Negative

9.3 Any ballot shall contain all voting categories and shall inform the voter that:

9.3.1 All comments submitted with an accepted-with-comment vote will be reviewed by the project committee but the committee will not be required to respond to the comments.

9.3.2 To be valid, a negative vote must be substantiated, and a member casting a valid negative vote will receive notification from the committee as to disposition of the vote.

Section 10. Minority Opinions. Minority opinions may be filed as an appendix of all NIBS reports adhering to the following general guidance.

10.1 Minority opinions may be submitted by project committee members only.

10.2 The project committee chairman and steering committee, if any, shall evaluate the explanations and categorize the negative vote as follows:

10.2.1 Persuasive – the explanation is relevant and of such substance as to require incorporation into the original report.

10.2.2 Non-Persuasive – the explanation is relevant but not of such substance as to affect the original report.

10.2.3 Not-Relevant – the explanation is not consistent with the intent or subject matter of the report.

10.2.4 Editorial – the reasons are editorial in nature and revisions will be made.

10.2.5 Not-Valid - a negative vote not substantiated.

10.3 Only negative ballots held to be persuasive or non-persuasive by the project committee will entitle the voter to file a minority opinion to be considered for publication. A minority opinion will not be published without the expressed written consent of the author.

10.4 The project committee shall notify all who cast a negative vote of the committee's action. A voter who disagrees with a project committee may appeal directly to the project committee chairman for reconsideration. The project committee chairman and steering committee, if any, shall re-evaluate the explanation of the negative vote, and re-categorize the negative ballot, if warranted. If rejected, the decision may be appealed to the chairman of the Consultative Council for review and adjudication by the Council Steering Committee.

10.5 The content of the minority opinion shall be as follows:

10.5.1 Identify the subject and state the objection.
10.5.2 Explain the rationale for the objection.
10.5.3 State alternates that are recommended.
10.5.4 Sign the statement.

10.6 Minority opinions may be submitted on separate issues contained within a single report but each must be prepared separately.

10.7 Minority opinions on a single issue may be combined and signed jointly.

10.8 Minority opinions must be prepared to meet the deadline for submittal of the original report.

10.9 The format of a minority opinion submitted is subject to change and the content subject to editorial review without change in intent to assure one style in the report.

Section 11. Meeting Notices. Written notices of all meetings of project Committees shall be mailed not less than thirty days prior to the scheduled dates of such meetings, and shall give the place, time and other necessary information. Agenda and supporting documents shall be mailed at least 15 days prior to the meeting. Chairmen may call special meetings for specific purposes.

Section 12. Records. The secretary of each project committee or institute staff shall, where applicable, organize and keep accurate records of all written matter, including but not necessarily limited to the following:

12.1 Minutes of all scheduled meetings;

12.2 Voting records of all actions taken;

12.3 Written proxies and alternates;

12.4 Attendance at meetings including visitors;

12.5 Letter ballots;

12.6 Correspondence, including meeting notices;

12.7 Reports, resolutions and all other written matter;

12.8 Financial reports, including budgets and expenditures;

12.9 Memoranda giving information on significant verbal communications, including instructions from the Consultative Council;

12.10 All such other records as may from time to time be requested by the Chairman.

All records shall be open to inspection by (a) members of the Committee; (b) authorized staff of NIBS; (c) all members of the NIBS Board of Directors and the Consultative Council; and (d) by such other individuals as may from time to time be expressly authorized by the chairman of the Consultative Council.

ARTICLE VII. AMENDMENTS

Section 1. Amendments. The Consultative Council shall prepare changes to these Rules and Procedures which may be amended only at a meeting of the Board of Directors, by a majority vote; provided, however, that the Board of Directors and the Consultative Council shall be advised of the substance of any proposed change in these Rules and Procedures, in writing, at least ten days prior to the meeting of the Board of Directors. To the extent reasonably practicable, notice of any proposed change shall be given to the Consultative Council in advance of the meeting of that Council immediately preceding such meeting of the Board of Directors.

Revisions last approved by the Consultative Council - 8/11/89

Revisions last approved by the Board of Directors - 8/17/89

LEAD-BASED PAINT TESTING, ABATEMENT, CLEANUP AND DISPOSAL GUIDELINES

MEMBERS OF THE NIBS PROJECT COMMITTEE

James Keck - Chairman, Lead Poisoning Prevention Program, Baltimore City Health Dept., Baltimore, Maryland
Richard A. Baker, Springfield/Greene County Public Health Center, Springfield, Missouri
Nancy Bernstine, Council of Large Public Housing Authorities, Washington, D.C.
*James Boyle, Operative Plasterers' and Cement Masons' Int'l Association of the United States and Canada, Washington, D.C.
Harlan R. Bratvold, Underwriters Laboratories, Northbrook, Illinois
Cheryl C. Burke, Esquire, Washington, D.C.
Kenneth W. Byk, Warrington, Inc. Austin, Texas
Ken Campbell, National Association of Lead in Paint Analyzers, Mason, Georgia
Jim Chandlee, National Lead Detection Services, Inc., Roswell, Georgia
Bill Vocke -OS311, Office of Solid Waste, (WH-562B), Washington, D.C. Brenda Cole, Tufts University, Medford, Massachusetts
C. Edwin Craft, Environmental Protection Systems (EPS-Mid-Atlantic), Chantilly, Virginia
Helen English, Steven Winter Associates, Inc., Washington, D.C.
John Ervin, National Corporation for Housing Partnerships, Washington, D.C.
Dr. Henry Falk, CEHIC/EHHE, Koger Center, F28, Atlanta, Georgia
Katherine Farrell, Maryland Dept. of the Environment, Center for Environmental Health, Baltimore, Maryland
Alex Fischberg, Princeton Gamma-Tech, Inc., Princeton, New Jersey
Eugene Z. Fisher, Association of the Wall & Ceiling Industries - International (AWCI), Alexandria, Virginia
*Ellis G. Goldman, U.S. Dept. of Housing and Urban Development, Washington, D.C.
Dr. Lester D. Grant, Research Triangle Park, North Carolina
David B. Hattis, Building Technology Inc., Silver Spring, Maryland
Alexander M. Houtzager, Corps of Engineers, Engr & Hsg Support Center, Washington, D.C.
Steve M. Hays, P.E., Gobbell Hays Partners, Inc., Nashville, Tennessee
Richard L. Heimer, Richard L. Heimer PE PC, Huntington Station, New York
William H. Hoffman, QUESTCO Inc., Bethesda, Maryland
Lee C. Jensen, AIA, City of Milwaukee, Dept. of Building Inspection, Milwaukee, Wisconsin
Donald F. Luebs, Upper Marlboro, Maryland
William J. Lau, Housing Authority of the City of New Jersey, Jersey City, New Jersey
*Dr. Jane S. Lin-Fu, Bureau of Maternal & Child Health and Resources Development, Rockville, Maryland
John A. McCauley, Housing Authority of Baltimore City, Baltimore, Maryland
Mary McKnight, Gaithersburg, Maryland
Philip P. Carpenter, Nilfisk of America, Inc., Malvern, Pennsylvania

Miles Mahoney, Brookline, Massachusetts
Khaled Masri, BOMA, Washington, D.C.
Chris T. Matthews, Naval Facilities Engineering Command-HQ, Alexandria, Virginia
Mark L. Matulef, National Association of Housing and Redevelopment Officials, Washington, D.C.
Carol B. Meeks, College of Home Economics, University of Georgia, Athens, Georgia
James W. Miller, Thomas P. Harkins, Inc., Baltimore, Maryland
Richard A. Morris, National Association of Home Builders, Washington, D.C.
Roger G. Morse, AIA, ENTEK Environmental and Technical Services, Inc., Troy, New York
H. V. Nagendra, S. Stewart Farnet AIA, Arch. & Assoc.,Inc., New Orleans, Louisiana
Herbert Needleman, University of Pittsburgh, Pittsburgh, Pennsylvania
Carolyn Newton, U.S. Dept. of Housing and Urban Development, Washington, D.C.
Edward W. Novak, US Army, Construction Engineering Research Laboratory, (CERL), Champaign, Illinois
Angus T. Olson, Alexandria Redevelopment & Housing Authority, Alexandria, Virginia
Stephanie Pollack, Boston, Massachusetts
Brad Prenney, Childhood Lead Poisoning Prevention Program/Mass. DPH, Jamaica Plain, Massachusetts
*Tom Ramsey, P.E., (American Council of Independent Labs), SW Labs, Houston, Texas
*Anthony Brown, Office of Construction and Maritime Compliance Asst, OSHA, Washington, D.C.
Dr. John Rhodes, Columbia Scientific Industries, Austin, Texas
Michael R. Rowder (Ms.), Chicago Housing Authority, Chicago, Illinois
Maryann M. Russ, Wilmington Housing Authority, Wilmington, Delaware
*Don Ryan, House Appropriation Subcommittee on HUD-Independent Agencies, Washington, D.C.
Vince Sandusky, National Painting and Decorating Contractors of America, Fairfax, Virginia
R. M. Santucci, Enterprise Foundation, Columbia, Maryland
Malcolm "Mac" Scott, Lead Testing & Abatement Inc., Sarasota, Florida
James M. Simpson, and Dr. Henry Falk, CEHIC/EHHE, Koger Center, F28, Atlanta, Georgia
Joseph I. Smith, Housing Authority of Savannah, Savannah, Georgia
Ralph Lee Smith, Upper Marlboro, Maryland
Wesley Straub, Kaselaan & D'Angelo Associates, N. Quincy, Massachusetts
Dale Trippler, MN Pollution Control Agency, St. Paul, Minnesota
Carl R. Vander Linden, Vander Linden and Associates, Littleton, Colorado
Richard Wallace, National Lead Detection Services, Inc., Roswell, Georgia
David Weiss, National Association of Realtors, Washington, D.C.
Jim Werner, The Brand Companies, Inc., Park Ridge, Illinois
John Yoder, Lead Industries Association, New York, NY
*Amy Zimmerman, New England Consortium of Childhood Lead Poisoning Programs, Rhode Island Dept of Health, Providence, Rhode Island
* Appointed

NEIGHBORHOOD REINVESTMENT CORPORATION

STATEMENT OF WILLIAM A. WHITESIDE, EXECUTIVE DIRECTOR

INTRODUCTORY REMARKS

Senator **Mikulski**. We're now going to move to the Neighborhood Reinvestment Corporation.

We're pleased to welcome our next witness, Mr. William Whiteside, the Executive Director of the Neighborhood Reinvestment Corporation, which was chartered by the Congress in 1978 to help generate affordable housing for low-to-moderate income families in neighborhoods across this country. Neighborhood Reinvestment can be proud of its accomplishments through its neighborhood-based partnership programs, the Neighborhood Housing Services, the Apartment Improvements Program, and mutual housing associations.

I am proud of the fact that my own home town of Baltimore is the home of the Neighborhood Reinvestment's first mutual housing association and one of the first neighborhood housing services programs, chaired by our dear friend, Matilda Kovell.

Last year, the subcommittee increased Neighborhood Reinvestment's budget by over 32 percent, an investment that came to about $7 million. We're quite anxious to learn how these funds are being invested in low-income housing opportunities for the preservation of neighborhoods.

I'm disappointed, however, at the administration's proposed 7-percent cut in Neighborhood Reinvestment and I oppose that reduction and will work to restore these funds.

Senator Garn, did you want to say anything?

Senator **Garn**. Just a brief comment to welcome Bill, again. He and I have grown gray and bald together over the years. I was looking at your white hair and I can't see, but I can feel and I had a lot more hair and your hair had a lot more color when we started working on Neighborhood Reinvestment.

Senator **Garn**. So I welcome you, Bill. He and I have become old friends over the years of working on NHS. Thank you for coming.

Senator **Mikulski**. Senator Grassley?

Senator **Grassley**. Mr. Whiteside I welcome you here, as well. As you know, there are two communities in my State of Iowa that have benefitted from involvement with the Neighborhood Reinvestment Corporation. These communities are Des Moines and Davenport. Recently, I had the opportunity to visit the operation in Des Moines and I was really impressed with the work that has gone on there. I'm hopeful to pay a visit to the Davenport area and see what they have underway, as well.

I would like to relay to you, Mr. Whiteside, the importance of the programs in my home State. It's important that the Neighborhood

Reinvestment Corporation not forget the rural areas of our country. The neighborhoods of rural America are just as important as the neighborhoods of the bigger cities. The small communities of rural America are vital to the future of the United States, just like people in the major cities are as well. So I'm hopeful, Mr. Whiteside, that you're sensitive to these communities and their needs.

Thank you very much.

SUMMARY STATEMENT OF WILLIAM A. WHITESIDE

Senator **Mikulski**. Mr. Whiteside, we welcome you today, and why don't you proceed with your testimony, knowing that we're operating under the 10-minute rule.

Mr. **Whiteside**. Thank you, Madam Chair. It's a pleasure to be here. I'd like to formally thank the committee for their vote of confidence last year and the significant increase in funding which has enabled us to considerably increase our service to NeighborWorks neighborhoods during this fiscal year 1990.

In January, Neighborhood Reinvestment conducted a national leadership conference here in Washington which coincided with the 20th anniversary of our beginning this work under the Federal Home Loan Bank Board. During the conference we focused our attention on the past 20 years, and before we concluded, we were also focusing ahead into the next decade.

I'd just like to comment that Senator Mikulski was remembered fondly as a neighborhood organizer at our conference. I'm bringing the thanks and appreciation of the 3 million Americans residing in our neighborhoods for her work as a neighborhood organizer in SECO, for her work on the Baltimore City Council, her work in the House, and her work in the Senate on behalf of neighborhood residents.

Senator Garn, of course, was Mayor Garn at the beginning of our association with him in Salt Lake City. We have really appreciated the dozen-plus years of association with him.

Senator **Garn**. Well, unfortunately, I wish it was only 12; it is 16 since I was mayor.

Senator Grassley, we have a shorter history with the Senator but still are warmly appreciative of the leadership role he's taking in the Senate on behalf of the NeighborWorks network and are looking forward to the next 10 years of his support.

PUBLIC/PRIVATE RESIDENT PARTNERSHIPS

Today our network of public/private resident partnerships are in operation in 147 cities and rural counties around the country serving 265 neighborhoods in 42 States, Commonwealth of Puerto Rico, and the District of Columbia. Seventy-nine neighborhoods are now self-reliant that were previously in rocky condition when we first began to work with them. They have now overcome their primary vulnerabilities and enjoy a healthy condition to carry on into the future.

As a result of our work, $7.4 billion have been reinvested in these neighborhoods. We have expended approximately $180 million in congressional funds to bring this about, resulting in a 37-to-

1 ratio; $37 is reinvested locally for every $1 appropriated to Neighborhood Reinvestment.

BANNING, CA, PROGRAM CREATIVITY

In my testimony, I touched on the community of Banning, which is a little known community in California. When you drive to Palm Springs, it's the last town you pass through before getting into the desert. The NHS there serves the East Side neighborhood, which is home to low-income, underemployed, minority residents.

As an example of the variety of things that NHSs get into, before the program could start working on the dilapidated housing stock occupied by the residents, it was clear they needed to do something to bring some money into the community. So they have created, with the help of the State of California and the Desert Bus Line Service, a free ride-to-work bus. Now the residents of that community can go into Palm Springs and the other desert resort communities to work in the hotels and resorts and be able to transport themselves back and forth to work and bring some income into the community so they can afford to pay for the loans to improve their homes.

We think that this was a very creative and intelligent way to begin the process of neighborhood revitalization, and the State of California has pitched in and is providing job training tax credits to the resorts and hotels that are hiring these residents.

That is at one end of the spectrum. At the other end of the spectrum, we have the Chicago NHS, which is now serving nine neighborhoods, as a major rehabilitation and new construction contributor to the housing economy of Chicago. We have everything in between, including a number of rural programs.

DEALING WITH DRUG/CRIME ACTIVITY

In the community of San Antonio, we have a bellwether program which, in order to continue its rehabilitation efforts and its neighborhood revitalization efforts, had to deal first with the drug trade which was depressing the community and caused people, instead of having a reinvestment psychology, to be forced to consider getting out of that neighborhood. There were flagrant open-air drug markets, innocent people accosted on the street, kids dragged into service as lookouts, and the community had to deal with it.

They dealt with it through neighborhood organizing. They dealt with it by getting hundreds of neighborhood residents out to impress upon the city officials that the residents would do their part if the city would do its part. They swatted down the visible drug traffic. They put in a neighborhood police station. They have police walking beats. They have the residents reporting suspicious behavior and taking down license numbers and giving descriptions. The result: they have brought it down to a dull roar. Now, it's clear to me that until our society's values change, this is going to continue to be a problem, but it also demonstrates what is possible when organized residents want to bring a problem under control in their neighborhood.

Now I will comment on three things that your additional funding helped produce for us this past year.

REVOLVING ACQUISITION FUND

First, it enabled us to start a revolving acquisition fund. We funded it with $500,000; it's a fund to cover the costs that a private developer would cover with its risk capital, the front money, as they call it in the business. It pays for option costs and engineering studies and architectural studies and soil borings; the kinds of things that if the project doesn't turn out to be feasible, you're glad you spent the money and could walk away before investing further. We are treating these as reimbursable grants. If the project goes forward, we expect to be reimbursed out of the takeout financing when the project is completed. However, if the indications of the engineering report are that the program shouldn't buy the property, then we forgive that grant and don't expect to get it back.

This is an enormous resource for a small, nonprofit organization. Nonprofits don't have access to risk capital, and the availability of the revolving acquisition funds enables a major expansion of efforts to eliminate the vacant properties that are blighting our neighborhoods and to take advantage of the vacant properties that are in the RTC, HUD, and failing S&L inventories. These are terrific opportunities when you think that it's possible, for a few thousand dollars a unit, to take control of a property and, with minimal rehab, to bring it into occupancy of low- and moderate-income tenants. Essentially, you have a zero or almost zero subsidy cost for low- and moderate-income housing.

TEXAS EXAMPLE

Our best example of this is occurring in Texas, as you might expect. The Mutual Housing Association of Austin and the NHS's of Houston, Dallas, and San Antonio, have organized a Texas Mutual Reinvestment Corp. The corporation's activity will be to take control of properties that are available for the use I've just described. They've had two bids accepted just recently—265 units at $7,000 per unit—and they are in the process of completing the contracts, doing the engineering studies I mentioned, and so on. Compare that with the average cost of housing and the kind of high costs we see in the Northeast and you have an idea of the opportunities available there.

We do not yet have an incorporated mutual housing association in San Antonio to operate the units. The Texas Mutual Reinvestment Corp. will hold them and will contract for management of the units while a mutual housing association is being developed. The property will be turned over to the mutual housing association to own and manage when it is incorporated.

Without question, this would not have been possible without the additional funding you made available to us this year.

NEED FOR SOPHISTICATED FINANCIAL MANAGEMENT

A necessary condition for the growth into a new level of sophistication of the work of neighborhood housing services and mutual housing associations is for Neighborhood Reinvestment to do more capacity building, particularly in the area of financial management. We're seeing a large number of NHS's that are getting into more sophisticated activities but are using the same bookkeeping system that they had when their total activity was working with homeowners on upgrading their homes. These programs need computerization, they need the ability to have the kind of sophistication that any developer would have in terms of handling funds and scheduling jobs.

Again, with the additional funds you've made available, we're at a beginning stage of making these resources available.

Thank you very much. I'm very pleased to take your questions.

Senator **MIKULSKI**. Thank you.

[The statement follows:]

STATEMENT OF WILLIAM A. WHITESIDE

Mr. Chairman and members of the Committee, this year, thanks to your vote of confidence and the increased funding you made possible, the NHS/NeighborWorks Network is equipped to take a significant step forward in meeting the needs of lower income neighborhoods across America. The resources you have made possible are unleashing a level of grassroots energy and activity that surprised even me.

The Neighborhood Reinvestment Corporation continues to play a catalytic and developmental role in its national network of Neighborhood Housing Services (NHSs), Mutual Housing Associations and Apartment Improvement Programs (AIPs). Known as the NeighborWorks network, each of these local organizations is a working partnership of neighborhood residents, local business leaders and local government officials.

A federal appropriation of $26,554,000 is devoted in FY 1990 to providing technical, organizational development and financial assistance to the network of 157 local, non-profit organizations actively serving 265 neighborhoods in 42 states, the District of Columbia and the Commonwealth of Puerto Rico. The overall mission is the revitalization of distressed neighborhoods. To date, 79 neighborhoods have achieved a healthy, substantially "self-reliant" condition as a result of the NeighborWorks network's efforts.

Neighborhood Reinvestment resources, including staff and grants, often provide the critical ingredient: a grant at the earliest stage; a hands-on lesson in doing financial pro forma; a link to another program that has just successfully addressed a similar issue; a monitoring of progress that draws attention to an overlooked potential flaw or a workshop convening the partnership participants to carefully plan out their strategy.

Statistical measures of output continue to provide a solid basis for measuring the Corporation's and the NeighborWorks network's accomplishments. However, the human context is equally important. For instance, the Banning, California (population 17,202) NHS's plan to provide access to jobs for its under-employed, largely minority neighborhood residents; the San Antonio, Texas NHS's successful challenge to neighborhood drug dealers; and rental housing successes in such varied environments as Chicago, Syracuse, and Honolulu bring greater meaning to the NeighborWorks network's projected - through - FY 1990 cumulative $7.4 billion in reinvestment in over 300 neighborhoods, including 24,000 below-market loans totalling over $225 million, almost $3.0 billion in conventional lending, $159 million in commercial reinvestment, and 103,000 units directly rehabilitated or newly constructed.

NEW HOUSING DEVELOPMENT INITIATIVES

Scores of NHSs and our growing network of Mutual Housing Associations are at a point in their own organizational development where they are ready to move forward as significant housing developers in their communities through: 1) construction of new affordable homes on vacant neighborhood sites; and 2) converting neighborhood "lemons into lemonade," by a) bringing lower income families into homeownership in previously vacant, foreclosed properties, and by b) acquiring, rehabilitating and managing rental housing for long-term use by low- and moderate-income households. Both approaches result in additions to the nation's most critically endangered species: affordable housing.

MAINTAINING ONGOING NHS MISSION AND ACTIVITIES

It is important to stress that this housing development capacity is not being undertaken at the expense of the network's primary mission, namely: revitalizing distressed neighborhoods for the benefit of their current residents.

This mission and skill continues to be tested and refined in the most diverse of environments. By the end of FY 1990, over 90 neighborhoods will have achieved a state of health and "self-reliance" resulting in NHS services no longer being needed. This has allowed NHSs to direct their services to additional, and in many instances, tougher neighborhoods with higher proportions of rental stock and greater social need. Neighborhood Reinvestment continues to serve as a resource to the successor "self-reliant" neighborhood organizations, sharing information, making training available, and monitoring the neighborhoods' long-term health.

Examples of these tougher challenges are seen across the country. The City of Lawrence has the highest poverty rate of any city in Massachusetts and the two neighborhoods in which the NHS is working have twice the city poverty rate. These are poor, densely populated neighborhoods with an owner-occupancy rate of only 17 percent and an escalating drug-related crime problem. Working with Neighborhood Reinvestment staff, the NHS has concentrated its efforts on increasing the owner-occupancy rate in the neighborhood with the belief that the stability and commitment of new homeowners will help to restore confidence in the neighborhood and, therefore, help combat the growing drug-related activity.

In Atlanta, the NHS recently expanded its services into the University Center neighborhood. The neighborhood is a challenge for the NHS: 99 percent minority, predominantly elderly and low income households; 84 percent of the properties are rental. The goal of the NHS is to increase - through both infill housing and home purchase - the availability and stabilization of affordable housing for the current residents.

SPECIFIC HOUSING DEVELOPMENT ACTIVITIES

Attached to my testimony is a review of several stages of housing development initiatives currently underway (attachment A). These activities have been made possible by the creation of the Revolving Acquisition Fund, expansion of the NHS Secondary Market to meet the multifamily housing needs of our neighborhoods, and increased capacity of the traditional NHS secondary market for first and second mortgages for owner-occupied housing.

For example, the Mutual Housing Association of Austin has acquired two complexes within the last year, totalling over 200 units. They were foreclosed properties owned by lending institutions. The Association was able to leverage the needed mortgage financing with the help of relatively small NHSA loans and Neighborhood Reinvestment grants.

As another example of the use of our new housing development resources, the Chicago NHS is evaluating the acquisition and development of a 744 unit multifamily rental property. The estimated project cost is $18.5 million and Neighborhood Reinvestment and NHSA are playing an active role in evaluating the feasibility of the project. Neighborhood Reinvestment will also provide recoverable grants through the Revolving Acquisition Fund for preliminary engineering assessments of the property.

HOUSING DEVELOPMENT TECHNICAL ASSISTANCE

Critical to these local partnerships' abilities to move forward or, in some instances even contemplate these developments, is Neighborhood Reinvestment's expanded ability to strengthen their technical capacity. We endeavor to assure that the projects will be economically viable for the long term. This level of work is highly staff-intensive. We and NHSA have put in place a talented group of professionals to assure success in these local initiatives. Attachment B of my statement is an overview of the housing development services we are providing to local partnerships.

MUTUAL HOUSING ASSOCIATION ACTIVITY

As I noted earlier, our network of Mutual Housing Associations is growing in terms of numbers of Associations, unit production, and conceptual evolution. By the end of this year we anticipate approximately 900 units of housing to be under management of ten to eleven Mutual Housing Associations. These units are the result of both new construction, and acquisition of foreclosed and privately held properties. The Texas NHSs and Austin Mutual Housing Association have, with Neighborhood Reinvestment's assistance, formed the non-profit Texas Mutual Reinvestment Corporation to acquire and hold foreclosed multifamily properties in Texas. Close analysis of over fifty (50) foreclosed multifamily properties encourages us to believe that hundreds of units can be obtained at a fraction of their production costs for operation by Mutual Housing Associations.

A major breakthrough for Mutual Housing development this year has been the evolution of the concept of "self-sufficiency requirements" for the Associations. This strategy takes into consideration the time it will take for an Association to become administratively self-sustaining -- no longer in need of administrative grant support from Neighborhood Reinvestment and other donors. The formula varies according to regional housing economies, and results in a five- to seven-year plan for creating a self-sufficient operation which all potential funders can take into consideration from the start of an Association's development.

Mutual Housing Associations are proving themselves equally viable in the soft real-estate markets of the "oil-patch" and in high-cost markets such as Stamford, Connecticut. A recent Federal Register announcement regarding availability of our assistance to local communities in creating Mutual Housing Associations resulted in responses from nearly 200 localities throughout the country. This list (attachment C) is tangible evidence of the demand for effective new tools for meeting affordable housing needs. The responses also evidenced a recognition by local groups of the importance in today's funding environment of Neighborhood Reinvestment's ability to leverage local resources and stand behind local programs with high quality technical services.

FINANCIAL CAPACITY DEVELOPMENT

This year's additional funding has enabled us to begin expanding the Corporation's capacity to strengthen the financial management capacity of local programs. With so many NeighborWorks organizations at major growth points in their development, this is of the highest priority. With this year's increased resources,we are creating, and will be implementing across the network, a financial management technical services system designed to assure that fiduciary soundness accompanies the network's programmatic growth.

FISCAL YEAR 1991 RECOMMENDATION

For FY 1991, the Administration's funding recommendation represents a decrease of 7.7 percent in appropriated funds from FY 1990. The Office of Management and Budget is proposing to achieve this level by $17,895,000 in new budget authority and a transfer of an estimated $6,605,000 in unobligated funds from the National Credit Union Administration.

The total outlays level of $24,500,000 would be $2,054,000 below FY 1990 outlays. Most of this reduction would be achieved through a reduction in grants, as recommended by OMB. We agree that this would be the most prudent way to achieve a reduction, as it would leave in place the increased technical services capacity made possible by the current year's increase.

I close by thanking you, on behalf of the entire NeighborWorks network, for your past and continuing support.

ATTACHMENT A

HOUSING DEVELOPMENT ACTIVITY

PROGRAM/ LOCATION	TYPE OF OWNERSHIP	# OF UNITS/ TYPE	TOTAL PROJECT COST	1ST MORTGAGE FINANCING	SECONDARY FINANCING/ SUBSIDY REQUIRED	NR/NHSA ROLE	COMMENTS
Austin	1. Mutual	122 Multi-Family	$2,996,347	$2,496,347 PM	$350,000 NH Loan $150,000 NR Grant	F	NHSA Provided Loans for Property Acquisition
	2. Mutual	92 Multi-Family	$1,680,000	$1,200,000 PB	$200,000 NH Loan $280,000 NR Grant	F	
Baltimore Mutual	1. Mutual	48 New Townhouses	$2,922,215	$500,000 PB	$1.1 Mill State 2nd $1.2 Mill HODAG 3rd $50,000 CDBG $50,000 NHS Equity	TA	NHSA Arranged $500,000 Construction Forward Commitment w/ Coop Development Bank
Baltimore NHS	Non-Profit	23 Scattered Rehab Rental	$1,351,800	$ 950,000 GB	$ 401,800 LITC $ 50,000 NR Grant	TA, F	
Camden NHS	1. Homeownership	17 TH Rehab	$ 1,463,904 E		$ 35,000 NR Grant	TA, FA	
Cambridge Community Housing	1. Non-Profit	9 Multi-Family	$772,000			FA	
Chicago NHS	1. Non-Profit	744 Multi-Family	$18,500,000		$ 65,000 NR Grant	FA	
	2. Homeownership Purchase Program	70 Single Family	$4,400,000	$4,000,000 PB		F	NHSA Committed First $250,000 Toward $4.0 Goal
	3. Non-Profit	20 Multi-Family Rehab Rental	$225,934	$225,934 NH		F	
Dallas NHS	1. Homeownership Purchase Program	14 New Single Family 9 Rehab Single Family	$1,150,000	$1,000,000 PB		F	NHSA Committed First $200,000
	2. Mutual (Prairie Hill)	18 MF Rehab	$ 398,587 E	$ 329,880 NH		TA, FA	
	3. Mutual (Prairie Tree)	35 MF Rehab	$ 422,334 E	$ 349,534 NH		TA, FA	
	4. Mutual (Redbird)	252 Rehab	$ 3,125,564 E			TA, FA	
Detroit NHS	1. Homeownership	20 Scattered Rehab Single Family	$560,000	$26,600/u FN		TA	
Ft. Worth NHS	1. Homeownership	25 Scattered Rehab Single Family	$750,000	$28,500/u FN		TA	

PROGRAM/ LOCATION	TYPE OF OWNERSHIP	# OF UNITS/ TYPE	TOTAL PROJECT COST	1ST MORTGAGE FINANCING	SECONDARY FINANCING / SUBSIDY REQUIRED	NR/NHSA ROLE	COMMENTS
Jersey City NHS	1. Cooperative	8 Multi-Family & 5 Commercial Spaces	$615,051	$360,000 GB	$151,500 State $53,551 NHS Equity $50,000 NR Grant	TA	
	2. Cooperative	11 Multi-Family 1 Commercial Space	$585,176	$236,150 GB	$211,040 State $121,487 City $16,500 NHS Equity	TA	
	3. Non-Profit	36 Multi-Family Rehab Rental	$1,445,696	$400,000 GB	$119,543 County $260,500 City $120,000 City $545,653 State	TA	
Kansas City NHS	1. Non-Profit	12 Multi-Family Rehab Rental	$262,882	$208,115 NH	$55,000 NR Grant	TA ,F	NHSA Provided First Mortgage
	2. Non-Profit	36 Multi-Family Rehab Rental	$804,184	$145,995 GB $145,995 NH	$442,301 City 2nd $48,739 NR Grant $21,105 NHS Equity	FA, F	NHSA and State First Mortgage 18 Units Each
	3. Non-Profit	43 Multi-Family Rehab Rental	$1,780,771 E			TA	
La Habra NHS	1. Non-Profit	18 Multi-Family New Rental	$1,263,032	$608,032 AF	$275,000 County 2nd $375,000 City Land $5,000 NHS Equity	TA	
	2. Homeownership	5 New Townhouses	$440,000	$343,000 CB		TA	
	3. Non-Profit Homeownership	16 Rehab Rental + 21 FS Rehab	$800,000 E $630,000 E			TA	
Lawrence NHS	1. Homeownership	20 Scattered 3 Family Units	$800,000	$400,000	$320,000	TA, F	NHSA Provided a $200,000 Forward Commitment for 1st Mortgage Financing
Newark AIP	1. Non-Profit	17 MF Rehab Rental	$ 2,030,200 E			TA, FA	
Oakland NHS	1. Non-Profit	20-30 New Multi-Family Rental	$2,000,000 E			TA	
	2. Homeownership	10 New & 20 Rehab	$1,200,000 E			TA	

PROGRAM/ LOCATION	TYPE OF OWNERSHIP	# OF UNITS/ TYPE	TOTAL PROJECT COST	1ST MORTGAGE FINANCING	SECONDARY FINANCING / SUBSIDY REQUIRED	NR/NHSA ROLE	COMMENTS
Pasadena NHS	1. Non-Profit	12 Multi-Family Rehab Rental	$825,579	$370,000 PM	$295,000 City 2nd $ 92,315 NHS Equity $ 68,579 NR Grant	TA	
	2. Homeownership	7 New Townhouses	$772,867	$682,250 GB	$151,000 City 2nd $186,000 Local Funds	TA	
	3. Homeownership	3 New Townhouses	$453,075 E			TA	
Phoenix NHS	1. Non-Profit/ Homeownership	28 Multi-Family Rehab	$913,245	$574,500 PB	$250,000 City 2nd $88,745 NHS Equity	TA	
Sacramento Mutual	1. Mutual	36 Multi-Family Rehab	$1,370,000	$321,586 PM $324,747 NH	$245,529 Tax Increment $478,138 City	TA, F	NHSA and a Consortium of S&Ls are Providing 1st Mortgages for 20 and 16 Units Respectively
Saginaw NHS	1. Non-Profit	6-20 Single Family Rental	$300,000 E			TA	
San Antonio NHS	1. Mutual (Westmoreland)	132 MF Rehab	$ 1,360,898 E	$ 825,169 PB $ 216,233 NH	$ 375,000 NR Grant $ 245,650 City	TA, FA	
	2. Mutual (Babcock)	125 MF Rehab	$ 1,262,104 E	$ 797,432 PB $ 206,787 NH	$275,000 NR Grant $ 134,650 City	TA, FA	
	3. Mutual (Hilltop)	22 MF Rehab	$ 308,685 E	$ 231,942 NH		TA, FA	
	Total:	2,172 Units	$ 62,942,130				

1st Mortgage Financing/Types

PB:	Private Conventional Permanent Loan Below Market Rate
PM:	Same as Above w/ Market Rate
CB:	Private Construction Loan Below Market Rate
CM:	Same as Above w/ Market Rate
AP:	S & L Affordable Housing Legislation below Market Rate Permanent Loan
FN:	FNMA Homeownership 1st Mortgage
NH:	NHSA 1st Mortgage Below Market w/ Investor or Secondary Market Loan
GB:	Local or State Below Market Permanent Mortgage
LITC	Low Income Tax Credit

NHSA Role

TA:	Technical Assistance
F:	NHSA Provided a Portion of the Project Financing Directly
FA:	NHSA and NR Evaluating Only the Financing Needs of a Project
E:	Estimate

Note: NHSA is working with Neighborhood Reinvestment staff and the Mutual Housing Association of [illegible] to explore alternative financing for future projects, including the feasibility of utilizing 501(c)3 bonds.
NHSA is working with Neighborhood Reinvestment staff to explore 1st mortgage financing for [illegible] development projects in Elgin, Illinois, St. Petersburg, Florida, St. Paul, Minnesota, and Pueblo, Colorado in addition to financing for projects listed above.

ATTACHMENT B

OVERVIEW HOUSING DEVELOPMENT SERVICES: NEIGHBORHOOD REINVESTMENT & NHSA

Nature of Technical Assistance

A. Project Capacity Building

- Defining Project Goals
- Determining Appropriate Staffing
- Staff Recruitment
- Budgeting Assistance (establishing categorical budgets)
- Fund Raising Assistance
- Improved Financial Management

B. Pre-Development

- Engineering Studies
- Market Studies
- Appraisals
- Soil Testing
- Development Budgets and Operating Pro Formas
- Preliminary Site Control (obtaining options)
- Architectural Drawings

C. Acquisition and Construction

- Completing Site Control
- Developing Specifications
- Preparing Loan Packages
- Obtaining Financing Commitment
  - . Construction
  - . Permanent
  - . Equity Participation
- Monitoring Construction

D. Occupancy

- Marketing (for sale and/or rentals)
- Screening Clients
- Property Management Planning
- Collection System for Rent and Maintenance

Time Frame	**Resource Need**	**Potential Sources**
Organization Development and Planning	Additional Funding for Expanded Staff	Neighborhood Reinvestment Capacity Building Grants Fund Raising Assistance
	Improved Financial Management	Neighborhood Reinvestment Technical & Financial Assistance NHSA Computer Accounting Design
Pre-Development	Revolving Fund or Seed Capital for Engineering Soil Testing, Appraisal, etc.	Neighborhood Reinvestment Revolving Fund for Acquisition & Pre-Development Fund Raising Assistance Local Government Pre-Development Loans *Co-op Development Bank/NHSA Fund

Acquisition and Construction	Construction Loan	Local Lenders Local Government *Co-op Development Bank/ NHSA Fund
Completion	Permanent Financing	Market Rate First Mortgag Conventional Loan *FNMA *FHLMC Below Market Rate First Mortgage *State Housing Finance Agencies (incl. 501(c)3 Bonds *Affordable Housing Funds (S&L Legislation) Community Reinvestment Lending *NHSA Social Investments Equity Funding Grant Funds - NR *Private *Local Government Low Income Tax Credits *Gap Loans (Short Term Equity Loans from NHSA) Loans for Down Payment or Closing Costs Below Market Rate Secondary Financing NHS Revolving Loan Fund Municipal Government Community Development Block Grant (CDBG) Rental Rehab Tax Increment Funds State Loan Programs NHSA Social Investors

*Funding Resources Being Developed

ATTACHMENT C

Federal Register Announcement Inquiries (2/15/90)

Alabama
Birmingham: JCCEO

Arizona
Mesa: Community Counsel
Flagstaff

Arkansas
Blytheville: Mississippi County EOC
Fayetteville: EOA - WC
Littlerock: Arkansas Dept. Human Services

California
Alameda: Community Development Dept., City of Alameda
Clearlake: North Coast Opportunities
Davis: Davis Community Housing
Escondido: Norse County Housing Federation
Livermore: ECHO Housing
Los Angeles: Portals
Modesto: City of Modesto, Housing Program Office
Merced: Merced County Economic Development
Palm Desert: Coachella Valley Housing Coalition
San Diego: God's Kids
San Francisco: Innovative Housing
San Jose: HCD, County of Santa Clara
San Mateo: HIP
Santa Rosa

Connecticut
New Haven: Office of Housing and Neighborhood Development
New Haven: Home Inc. and Regional Water Authority

Delaware
Wilmington

Florida
Clearwater: Community Development
Miami: Coconut Grove Local Development Corporation
Miami Beach: Miami Beach Development Corp.
St. Petersburg: Boley Inc.
Stanford: Community Services
Tampa: Community Development Dept. Hillsboro County

Georgia
Atlanta: New Century Housing Corporation
Atlanta: Transition House Inc.
Macon: Macon-Bibb Housing Association

Illinois
Congressman Rostenkowski's office
Belleville: Bruce, Dace, and Assoc.
Chicago: Child Serv
Chicago: Access Living
Chicago: Ex. Covenent Development Corp.
Decalb: Jubilee Services
Marion: Illinois Dept. of Commerce and Community Affairs
Waukegan: Lake County Community Action Project

Indiana
Columbus: First Presbyterian Church
Gary: City of Gary Planning Dept.
Gary
Gary: Morning Bishop
Hammond: Dept. of Planning and Development
Indianapolis: City of Indianapolis
Richmond: Star District Neighborhood Assoc.
South Bend: Housing Assistance Office, Inc.
Valparaiso: City Planner

Iowa
Remsen: Mid Sioux Opportunity Inc.

Kentucky
Lexington: Grant Consultant

Louisiana
New Orleans: Christian Fellowship
New Orleans: Urban Services Foundation
Slidell: St. Tammany Parish Community Action Agency

Maine
Bangor: Opportunity Housing Inc.
Caribou: Anoostook Mental Health
Portland: Peoples Regional Opportunity Program
Portland: Portland West Neighborhood Planning Council

Maryland
Annapolis: Planning Dept.
Baltimore: Maryland Clearinghouse, Office of Planning
Baltimore: Community Assistance Network
Baltimore
Baltimore: Harlem Park Restoration Group
Silver Spring: McAuley Institute
Westminster: City of Westminster

Massachusetts
Boston: Dome, Inc.
Cambridge: City of Cambridge Community Development
Fitchburg: CDC of Fitchburg
Haverhill: Community Action Inc.
Hoyloke: Valley Opportunity Council
Somerville
Springfield: McKnight Neighborhood Council

Michigan
Ann Arbor: Washtenaw Affordable Housing Corporation
Caro: Human Development Commission
Detroit: America Non-Profit Housing Corp.
Detroit: Detroit Non-Profit Housing Corp.
Flint: Salem Housing Task Force
Grand Rapids: Degage Ministries
Pontiac: Pontiac Area Lighthouse
Warren: City of Warren, Director of Planning

Minnesota
Mankato: Minnesota Valley Action Council
Spring Lake Park: Anoka County Community Action

Mississippi
Jackson: State of Mississippi Dept. of Human Services
Moss Point: Jackson County Civic Action Committee

Missouri
Marionville
St. Louis: Good Samaritan Service Center for the Homeless
St. Louis
St. Louis: Women Action Crusaders

Nebraska
Lincoln: Urban Development Dept., City of Lincoln
Omaha: Lao-Hmong Assoc. of Nebraska
Omaha: Holy Name Housing Corp.
Omaha: Omaha Ceconomic Development Corp.

New Hampshire
Nashua: Harbor Homes Inc.
Nashua: Urban Programs Dept., City of Nashua
Portsmouth: Portsmouth Planning Dept.

New Jersey
Belvidere: Warren County Affordable Housing Coalition
Bridgeton: TRI County Community Action Agency
Camden: Camden Redevelopment
Camden: City of Camden Redevelopment Agency
Cherry Hill: Fair Share Housing Development
Irvington: Valley Housing Corp.
Mountclair: HOME Corp.
Mt. Holly: Homes of Hope Inc.
New Brunswick: Housing Coalition of Middlesex County
New Brunswick: Brunswick Raritan Housing Corp.
Pennsauken: Camden County Dept. of Policy Planning and Development
Penns Grove: Puerto Rican Action Committee
Phillipsburg: Catholic Charities
Vineland: Casa Prac, Inc.

New Mexico
Albuquerque: EOB
Albuquerque: Housing Planner, Albuquerque Dept. of Human Services
Albuguerque

New York
Albany: Hospitality House
Brooklyn: Black Veterans for Social Justice, Inc.
Brooklyn: MHA of Bedford Stuyvestant
Brooklyn: St. Christopher-Ottilie
New York City: N.Y. State Office of Mental Health
New York City: Manhattan Valley Development Corp.
New York City
New York City: Dept.of Housing Preservation and Development
Niagara Falls: Training Young People for Excellence
Poughkeepsie: Hudson River Housing Inc.
Rochester: Northwest Community Services
Rockaway
Smithtown: Suffolk County Community Development Director
Troy: TRIP
White Plains: Westchester Residential Opportunities Inc.
Yonkers: Office of Federal and State Aid, City of Yonkers
Yonkers: Yonkers Community Action Program
Yonkers: Yonkers Human Rights Commission

North Carolina
Durham
Waynsville: Mountain Project Inc.

Ohio
Akron: Alpha Phi Alpha Homes Inc.
Caldwell: GMN Tri County Community Action

Cincinnati: EXCEL Development Inc.
Cleveland: C. English Realty
Columbus: Private Industry Council
Napoleon: American Red Cross

Oklahoma
Miami: Community Crisis Center Corp.

Oregon
Bend: Salvation Army
Portland: City of Portland Bureau of Community Development
Portland: Better Housing Trust Corp.
Springfield: City of Springfield Development Services

Pennsylvania
Chester: Mayor
Chester: Providence Avenue United Methodist Church
E. Strousburg: Redevelopment Authority of Monroe County
Emnaus: Valley Housing Development Corp.
Erie: Booker T. Washington Center
Harrisburg: Harrisburg Urban League
Media: Community Action Agency of Delaware County
New Castle: Allied Human Services Association
Philadelphia: Heritage Community Economic Development Corp.
Philadelphia: Community Education and Development Centers Inc.
Phildaelphia: Resources for Human Development
Pittsburgh: Community Technical Assistance Center
Sharon: Mercer County Community Action
Yardley: Ally Corp.

Puerto Rico
Bayamon: Technical Assistance for Economic Development
San Juan: Municipality of San Juan

Rhode Island
R.I. Housing Mortgage Finance Corp.

South Carolina
Columbia: Providence Homes

Tennessee
Knoxville: Eastern Tenn. Community Design Center
Memphis
Somerville: Fayette Cares

Texas
Amarillo: Panhandle Community Services
Dallas: Just in Time Work and Housing Fund
Fort Worth: Mental Health Assoc. of Tarrant County
Houston: Gulf Coast Community Services Assoc.
Houston: Freedmans Town Association
San Antonio: Community Action Division of City of San Antonio

Virgina
Alexandria
Falls Church: Lazarus at the Gate
Providence Forge: Community Agency
Roanoke: City of Roanoke, Grants Monitor

Washington
Everett: Housing Hope
Olympia: State Dept. of Community Development, Housing Division
Olympia: Bread and Roses
Seattle: CHHIP
Seattle: Evergreen Legal Services
Seattle: King County Housing and Economic Development
Spokane: Spokane Housing Authority

Washington D.C.
My Sisters Place
Mid-east Commission Area Agency on Aging

West Virgina
Marlinton: Community Action
Parkersburg: Parkersburg Housing Authority

Wisconsin
Glenwood City: WestCAP
Kenosha: Planning Counsel for Health and Human Services
Madison: Wisconsin Housingand Economic Development Authority
Milwauke: Milwauke Housing Assistance Corp.
Stevens Point: CAP Services

FISCAL YEAR 1990 INCREASE

Senator MIKULSKI. Mr. Whiteside, you talked about the $6 million additional that we gave to you and how you used it. I'd like to probe that a bit more. As you know, there is a proposed administration cut of $6 or $7 million which is about what the increase was from last year.

Would you give us a breakout of the specific activities for which this $6 million will be used, and the dollar amounts to be allocated toward each activity? When we got your justification 6 weeks ago, it failed to break out the use of these funds and the committee report language was pretty specific last year in how we thought it should be allocated.

Mr. WHITESIDE. We provided a supplemental schedule of this breakout. Should I offer that for the record?

Senator MIKULSKI. Yes; because it's not part of your testimony.

Mr. WHITESIDE. Thank you.

Senator MIKULSKI. Do you want to elaborate on that?

Mr. WHITESIDE. Yes; let me ask George Knight, our Deputy Executive Director/Treasurer to review the major elements of the supplemental schedule.

Mr. KNIGHT. As Bill has already mentioned, we have dedicated $500,000 to a revolving acquisition fund. In the area of Mutual Housing Association development, we've dedicated $3.5 million.

We increased our funds to the NHSA secondary market by $1.7 million to a total of $3.5 million. We did open a permanent office in the State of Hawaii as requested, and in the area of capacity building, as Bill's just mentioned, we increased our effort by nearly $1,200,000.

[The information follows:]

FY 1990 SUPPLEMENTAL BUDGET SCHEDULE

NEIGHBORHOOD REINVESTMENT CORPORATION

SUPPLEMENT TO BUDGET JUSTIFICATION
APPROXIMATE COST ALLOCATIONS BY ACTIVITY
ACTUAL FY 1989, ESTIMATED FY 1990, AND PROJECTED FY 1991

The following analysis is designed to supplement the Neighborhood Reinvestment Corporation's FY 1991 Budget Justification and to provide functional data in the areas of emphasis in Senate Report 101-128 regarding utilization of $6 million in funding above the amount originally requested for FY 1990. This $6 million was reduced to $5.836 million after proportional reductions necessitated by Gramm-Rudman-Hollings and Section 517, H. Rpt. 101-297.

FUNCTIONAL AREA	INCREASED FUNDING FOR FY 1990
Furthering secondary mortgage market activities	$1,700,000
Revolving acquisition fund	500,000
Expanding Mutual Housing Associations	2,255,000
Establishing a Hawaii Field Office	196,000
Assisting NeighborWorks Organizations with capacity development	1,185,000
TOTAL INCREASE	$5,836,000

The amounts shown are necessarily estimates, since the Corporation's cost centers do not exactly track the above functional categories; however, we are confident that they are reasonable approximations.

Furthering Secondary Mortgage Market Activities

Program Highlights

	1989	1990	1991
Grants	$1,830,000	$3,530,000	$2,250,000
Other Programmatic Expenses *	- 0 -	- 0 -	- 0 -
Corporate Administrative Costs *	- 0 -	- 0 -	- 0 -

* Reported under capacity development.

Results:

NHS loans purchased	5,041	10,000	6,400
Multifamily lending	5,500	20,000	12,700[1]

Fiscal Year 1989

In 1989, with a level of $1,830,000 in Congressional support, the NHSA secondary market was able to provide 3,239 loans for home repair and home purchases totalling approximately 11,336 disadvantaged NHS residents at interest rates that averaged 7 percent.

Fiscal Year 1990

In 1990, as a result of the increased congressional appropriation of $1,700,000 over 1989, NHSA will be:

1) purchasing approximately $10 million dollars in home rehabilitation and home purchase loans from over 60 NHSs.

2) for the first time, NHSA will directly originate or broker loans for $20 million in multifamily housing. This is expected to leverage $100 million in loans and grants from other sources for multifamily housing owned or managed by NeighborWorks organizations.

To facilitate NeighborWorks organizations entertaining large-scale housing development initiatives necessitated a team of a trained, professional staff who had extensive experience in the field of housing development. This newly created NHSA housing development team works with local programs to strengthen capacity at a neighborhood level, as well as assisting with necessary financing that will achieve long-term financial soundness for these housing initiatives.

Fiscal Year 1991

Under the Administration's budget request, a reduction of $1,280,000 is proposed for 1991. This amounts to a 36% reduction, and will result in the following consequences:

1) Reduction in NHSA's ability to buy NHS owner occupied home-purchase and rehabilitation loans by $3.6 million, down from $10 million in 1990;

2) Reduction in NHSA's ability to directly finance and/or secure primary financing on multi-family loans by $7.3 million, down from $20 million 1990; and

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[1] These are more precise estimates than those appearing in table 7, page 32 of the Budget Justification.

Program Description

Neighborhood Housing Services of America, Inc. (NHSA) was chartered in 1974 as a private, non-profit corporation established to provide services to local Neighborhood Housing Services programs. NHSA brings added private sector strength to the efforts of the NHS-NeighborWorks network and, through a unique secondary market, gives the NHS programs access to the private investor market as a resource for replenishing their own revolving loan funds. In addition, NHSA provides resource and leadership development assistance to local organizations and any other "services it can perform more effectively than the (Neighborhood Reinvestment) Corporation, (P.L. 95-557)."

NHSA is a separate and distinct organization from Neighborhood Reinvestment Corporation. It is administered by a 34 person staff, and governed by a Board of Directors composed of individuals representative of the NHS resident-public-private partnership. NHSA's president serves as an advisor to the Neighborhood Reinvestment Corporation officers, and Neighborhood Reinvestment's chief executive serves as an advisor to NHSA's Board of Directors. Funds are derived from private sources, income through investors in the secondary market operations, and direct grant support.

Secondary Market Operations:

NHSA operates 3 types of secondary markets for the NHS-NeighborWorks network. They are:

A. The traditional secondary market for NHSs' loans to non-bankable residents for critically needed home repairs and or home purchase loans.

B. The Congressionally sponsored secondary market initiative to meet the multi-family housing finance needs in NeighborWorks neighborhoods.

C. A pilot secondary market for loans local governments have made for below market loans for home rehabilitation and purchases.

A. The traditional secondary market for NHS home repair and purchase loans.

NHS loans are made to "non-bankable" residents, usually defined as individuals who because of age, credit history or income cannot qualify for a conventional loan. These loans are needed for critical home repairs and/or home purchases and are made with interest rates and terms tailored to the individual's ability to repay. NHSs nationally, through 1990, expect to have made over 24,000 such loans totalling over $225 million at interest rates and terms which average 6.5% over 12 years.

Secondary Market Need:
Because NHS revolving loans are tailored to meet the needs of low income residents, they have extended terms. Thus, the funds revolve slowly, creating a need for a source of liquidity to replenish the NHS's ability to make loans and continue to meet the financing needs of the neighborhood. NHSA steps in to purchase packages of loans from the local NHSs which provides the necessary infusion of capital. NHSA, in turn, combines these loans into pools, and issues securities backed by the loans. The securities are then sold at below market rates to institutional investors, primarily insurance companies.

Neighborhood Reinvestment Support:
Since investors purchase at below market rates, (about 3 points below market) NHSA requires capital to do the following: 1) to bridge the gap between the investor rate and that of the NHS borrower; 2) to warehouse the capital needed to purchase a pool loans, and; 3) to provide a guarantee fund to protect the investor from losses. The Neighborhood Reinvestment grant is the primary source of funding for this leverage fund.

Experience to Date:
Nationally, NHSA has purchased 3,300 loans for owner-occupied housing and sold notes backed by these loans to institutional investors at below market rates at an amount totalling $38.4 million. No investor has experienced losses to date and response to this financing mechanism continues to be positive, resulting in institutional investors' having made commitments to purchase an additional $8 million in loans this year.

B. Secondary market for NHS-NeighborWorks multifamily lending.

As of 1988, over 57% of the housing units in NeighborWorks neighborhoods were rental. The network became concerned about the need to protect such multi-family housing for low- and moderate-income residents over a long term period. Congressional sponsorship gave NHSA the ability to originate financing and/or broker placement of loans with private investors on multi-family real estate owned by NeighborWorks organizations.

C. Secondary market pilot for local government loans.

The Allstate Insurance Company is working with NHSA to develop the financial and legal vehicle for a purchase of $10 million of NHSA notes backed by local government loans as a pilot project. Loans are to be purchased from local governments by NHSA with recourse. With no leverage funds to permit these loans to be purchased at par, Allstate, as a social investment, is providing an interest subsidy that will produce a near market rate yield and will cover administrative costs. Dialogue and portfolio analyses were undertaken with four local governments and draft legal contracts with Allstate have been completed and are presently being reviewed by local counsel in two cities.

A REVOLVING ACQUISITION FUND

Program Highlights

	FY 1989	FY 1990	FY 1991
Grants	-0-	$500,000	$500,000
Other Programmatic Expense *	-0-	-0-	-0-
Corporate Administrative Costs *	-0-	-0-	-0-
Total	-0-	$500,000	$500,000

* Costs are reported under capacity development.

Results:			
Local Programs Assisted	-0-	15	20
Units Evaluated	-0-	2,000	2,500
Units Acquired	-0-	1,200	1,500
Grant Reimbursements	-0-	-0-	$125,000

Fiscal Year 1989

Because this program did not exist in FY 1989, several opportunities for NeighborWorks organizations to acquire and rehabilitate foreclosed properties were lost because of the lack of "risk capital" for predevelopment costs. Therefore, we developed the concept of a revolving acquisition fund which could advance funds for initial engineering and architectural surveys, options, etc., to be reimbursed out of the construction loan or permanent financing. (In those instances where the surveys or other conditions indicate that the acquisition should not be consummated, the reimbursable grant would be forgiven.)

Fiscal Year 1990

The additional funding permitted Neighborhood Reinvestment's Board of Directors to approve a $500,000 revolving acquisition fund in the Corporation's FY 1990 budget. Experience to date in FY 1990 indicates that this is a critically important tool for creating the capacity for neighborhood-based organizations to acquire, rehabilitate and operate low- and moderate-income housing, though projections of units evaluated and units acquired are still tentative.

Fiscal Year 1991

The proposed $500,000 FY 1991 funding for the revolving acquisition is projected to be supplemented with $125,000 in reimbursements from the previous year's grants, with additional repayments expected in future years. (This projection, along with projections of units evaluated and units acquired is quite tentative.)

PROGRAM DESCRIPTION: Revolving Acquisition Fund

The revolving acquisition fund was adopted as an eligible grant activity in September 1989 by the Neighborhood Reinvestment Corporation's Board of Directors in response to the increasing numbers of vacant/foreclosed properties held by the Department of Housing and Urban Development, the Resolution Trust Corporation, the Department of Veteran's Affairs, and local financial institutions.

Numerous NeighborWorks organizations had indicated in a 1988 needs assessment that the growing number of vacant/foreclosed properties were negatively impacting accomplishments already achieved as well as jeopardizing the development of future projects. In a meeting held in June 1989, many NHS executive directors indicated that this was the major limitation in expanding the amount of affordable housing in their neighborhoods.

The presence of a significant portion of foreclosed properties in a neighborhood is devastating -- inviting drugs and related crime, arson, and increased loss of real estate values. If these buildings could be acquired before reaching such a deteriorated state, they could offer safe, affordable housing options for low- and moderate-income households.

In many instances, NeighborWorks organizations have been prevented from acquiring a foreclosed property in the neighborhood due to lack of resources for engineering surveys, architectural studies or other "predevelopment" items to confirm feasibility. In the preliminary stages, the risk in such an undertaking is high, and it is difficult for NeighborWorks programs to secure financing.

Throughout Fiscal Year 1989, local NeighborWorks organizations impacted by vacant/foreclosed properties requested grant assistance from Neighborhood Reinvestment. In November 1989, a local NeighborWorks program requested a $300,000 loan to acquire a 242-unit complex in good condition held by the Federal Asset Disposition Agency (FADA). The loan would have been repayable upon receipt of permanent financing. Due to limited resources, Neighborhood Reinvestment was unable to respond; today, these units are gutted shells.

In FY 1990, $500,000 has been budgeted to establish a revolving acquisition fund. To date, over $2 million in preliminary requests have been received. To qualify for a grant, a local NeighborWorks organization must submit a project-specific proposal. The 2,600 units represented in these requests for funds reflect $76.6 million in lending activity. While not all projects will come to fruition, the response has been overwhelming.

EXPANDING MUTUAL HOUSING ASSOCIATIONS

Program Highlights

	FY 1989	FY 1990	FY 1991
Grants	$ 480,000	$1,973,000	$1,671,000
Other Programmatic Expenses	452,000	902,000	855,000
Corporate Administrative Costs	315,000	627,000	594,000
Total	$1,247,000	$3,502,000	$3,120,000

Fiscal Year 1989

By the close of FY 1989, eight Mutual Housing Associations were operational. They were located in: Baltimore, Maryland; the Lower East Side of New York City; Austin, Texas; Hartford, Norwalk and Stamford, Connecticut; Ithaca, New York; and Sacramento, California. Neighborhood Reinvestment was able to provide administrative support grants to three Associations.

Fiscal Year 1990

Additional resources made available in FY 1990 will allow Neighborhood Reinvestment to provide developmental assistance and assistance in acquiring properties to up to eight new Associations. Technical services, property acquisition assistance and staff and board training will also be made available to the eight operational Mutual Housing Associations. To take advantage of the current surplus of foreclosed multi-family housing in Texas, the Texas Mutual Reinvestment Corporation has been organized by the Austin Mutual Housing Association and the Dallas, Houston and San Antonio NHSs to acquire and hold foreclosed properties in Texas for later transfer to Mutual Housing Association ownership.

By the end of the fiscal year, an estimated 1,000 units will be under the management of ten to eleven Mutual Housing Associations.

Fiscal Year 1991

Neighborhood Reinvestment will develop up to eight new Mutual Housing Associations. Overall an estimated 2,000 units will be under the management of 13 to 15 Associations.

PROGRAM DESCRIPTION -- Mutual Housing Associations

Neighborhood Reinvestment began adapting the Western European model of mutual housing associations to the United States 10 years ago. A Mutual Housing Association, based on the Neighborhood Reinvestment model, is a new combination of title and tenure which offers low and moderate income association resident members a step up from rental -- not individual ownership, but a life long residency privilege and a voice in everyday management decisions.

Mutual Housing Associations are distinct in several ways from other American approaches to mutual and cooperative housing. With broad participation from the public and private sectors, Mutual Housing Associations are designed to be continuous producers of additional affordable housing. By comparison, cooperatives generally lack this long term public purpose.

Upon incorporation, each Association adopts a self-sufficiency plan to define at what point in unit production the Association will be self-sustaining and no longer in need of administrative support from outside organizations.

The objective of an Association is to minimize debt service costs and to provide security of tenure and long term affordability for resident members. To achieve this, "front-end" capital grants are used and below-market rate financing is secured when available. Neighborhood Reinvestment and NHSA, within resource limitations, are providing both grants and loans to Associations.

The Association, as a corporate entity, owns its properties, renting units to its members. The members pay a capital fee to qualify for a unit (approximately 5% of the value of the unit) which is returned with nominal interest when they leave. Although members do not participate in capital appreciation, they enjoy a voice in management and the security of long-term tenure.

A Mutual Housing Association has a special form of governance. Its Board of Directors is a public/private/community/resident partnership. Residents of association units and members waiting for units compose a majority of the Board. The other members are representatives of the communities in which the Association operates, local and state governments, housing professionals and business people.

Mutual Housing Associations are currently operational in Baltimore, Maryland; New York City (Lower East Side of Manhattan), New York; Hartford, Connecticut; Norwalk, Connecticut; Stamford, Connecticut; Austin, Texas; Sacramento, California; and Ithaca, New York.

ESTABLISHING A HAWAII FIELD OFFICE

Program Highlights

	FY 1989	FY 1990	FY 1991
Grants	$ -0-	$ -0-	$ -0-
Other Programmatic Expenses	-0-	116,000	116,000
Corporate Administrative Costs	-0-	80,000	80,000
Total	$ -0-	$196,000	$196,000

Fiscal Year 1989

In Fiscal Year 1989 no funds were available to establish a permanent office in Hawaii. The NHS development in Honolulu was staffed by mainland personnel at a substantial cost to the Corporation.

Fiscal Year 1990

In Fiscal Year 1990, $196,000 of the increase in funding was used to establish a permanent office in Hawaii. This amount provides funds for two staff members based in Hawaii plus related operating expenses. This staff supports the NHSs in Honolulu and Nanakuli while assessing new developments in other locations.

Fiscal Year 1991

We plan to continue funding the office at approximately the same level in Fiscal Year 1991.

ASSISTING NEIGHBORWORKS ORGANIZATIONS WITH CAPACITY DEVELOPMENT

Program Highlights	FY 1989	FY 1990	FY 1991
Grants	$ 566,000	$ 751,000	$ 725,000
Other Programmatic Expenses	357,000	947,000	966,000
Corporate Administrative Costs	248,000	658,000	671,000
Total	$1,171,000	$2,356,000	$2,362,000

Fiscal Year 1989

Fiscal Year 1989 was the first year in which Neighborhood Reinvestment funded activities in this category. In fiscal year 1989 we assisted 22 organizations with capacity development grants.

Fiscal Year 1990

Neighborhood Reinvestment will place an increased emphasis on assisting NeighborWorks organizations in improving their financial management and internal systems. This will be done in order to prepare them to address the increased demands on their management systems generated by increased real estate development activity.

Fiscal Year 1991

Despite a decrease in funding from Fiscal Year 1990 to Fiscal Year 1991, we anticipate maintaining the level of grant assistance to approximately 37 NeighborWorks organizations.

PROGRAM DESCRIPTION

The capacity building activity is designed to provide resources to NeighborWorks programs undertaking projects which require an enhanced level of sophistication in financial management, real estate development, and computerization. The financial management focus in this grant activity has significantly increased over Fiscal Year 1989 due to the increased need related to furthering the secondary market, the revolving acquisition fund, and expanding mutual housing associations.

A program is currently being developed (for full implementation in FY 1991) to review and strengthen the financial management of all active programs.

CAPACITY BUILDING ACTIVITIES

Senator **Mikulski**. Well, we think this supplemental will be sufficient but we really do want it because the good news about the Neighborhood Reinvestment Corporation is its innovation and its flexibility and its focus on grass roots rather than large bureaucratic structures. From time to time, we hear about nice case examples but it gets vague when we talk about the allocation. What I'm trying to do is to get a picture of where the funds are.

My next question is what works the best. You had three major housing programs, as I understand it, the secondary mortgage activity, the revolving acquisition loan fund, and mutual housing.

Those are other than the capacity building programs in your three major housing. What would you, if you had to compare the effectiveness of each of these various activities that is generating the most modest income housing for the least amount of Federal dollars, how would you rank those and why?

Mr. **Whiteside**. That is difficult to do since they interrelate so closely. The mutual housing association is a way for people who can't afford to buy a house to get most of the benefits of homeownership by belonging to an association which owns the property. The revolving acquisition fund helps these associations obtain property. The secondary market, in about two-thirds of its activity this year, is providing below market mortgages, usually second mortgages, to leverage the large amounts of capital that are necessary in order to acquire and produce the apartment buildings that are operated by the mutual housing associations. So they all go very much together. A secondary market for multifamily properties without an effective way for owning and operating the units for low- and moderate-income people wouldn't be productive. An acquisition fund without a good vehicle to own and rehabilitate the property wouldn't be effective.

REVOLVING ACQUISITION FUND

Senator **Mikulski**. Mr. Whiteside, let me ask you this in terms of the housing programs. Are you saying that when we talk about mutual housing, that most of your funds in the revolving acquisition loan fund and your secondary mortgage goes into production in making mutual housing work? Is it solely that way or is it primarily that way? Is the revolving acquisition loan fund also used in other areas rather than in support of mutual housing. That's what we're trying to get at.

Mr. **Whiteside**. Yes; I think that beginning in 1990, the answer to that is that it will be predominantly in mutual housing.

Senator **Mikulski**. It will be the multiplier and leverage to actually have mutual housing constructed?

Mr. **Whiteside**. Yes.

Now, an additional purpose, of course, is homeownership development and NHS's continuing to provide rehabilitation for existing homeowners and about one-third of the secondary market resources continue to be used for that. We wouldn't want to take on this new activity and drop the old one. Your support has launched us into a very important new activity and it is an important one for the country, I believe.

LEVERAGING OF FUNDS

Senator **Mikulski**. Well, what I think we're interested in doing—Mayor Garn and City Councilwoman Mikulski—is increasing the housing supply, particularly private sector that is not subsidized through section 8 or a voucher program and so on. I think that's one of the things that attracts us so about mutual housing. But we also don't want the Neighborhood Reinvestment Corporation to be the mutual housing corporation. You have an array of other activities. So what you're saying, the new money will primarily go to leverage increasing housing supply and that housing supply will be through the mutual housing methodology.

Mr. **Whiteside**. That's correct. Another point I have to add is that this activity has gone into the pipeline. As you know, housing development is a long process; from the time you get a contract until you have acquired the property, completed your design, and have the homes rehabilitated and occupied, it's likely to be about an 18-month process. So I wouldn't want to lead you to think that by the end of this fiscal year that we can show you the leverage that I'm talking about.

The leverage factor is exciting. The leverage from $3.5 million that we were able to provide to the secondary market this year leverages up to $20 million in multifamily loans and $10 million in purchase of regular NHS revolving loan fund loans. That $20 million in multifamily loans will leverage out into over $100 million in total project costs. So the $3.5 million in secondary market resources that resulted from this year's increase will have produced by the end of about 18 months approximately $100 million in multifamily projects primarily operated by mutual housing associations.

Senator **Mikulski**. Mr. Whiteside, that's a signal that we have a vote on the Senate floor on the Kerry amendment to the Clean Air Act. I'm going to recess while Senator Garn and I go to make our vote. Before I do, the Deputy seemed to be shaking his head while you were giving that.

Do you concur?

Mr. **Knight**. Yes. I would like to point out that attachment A of the testimony gives you details of the $100 million in multifamily projects.

Senator **Mikulski**. This committee will stand in recess, subject to the call of the Chair, upon returning from the vote.

[A brief recess was taken.]

Senator **Mikulski**. The committee will come to order.

Senator Garn, do you have a question or two for Mr. Whiteside?

Senator **Garn**. No, Madam Chair, I don't have any questions.

IMPACT OF FISCAL YEAR 1991 REDUCTION

Senator **Mikulski**. Mr. Whiteside, let me just ask this because I know that we're facing questions related to cuts and so on.

If Neighborhood Reinvestment Corporation was cut by $6 million, what would be its impact? In other words, would it stay in a steady state; would you lose ground? We know that you couldn't do the new initiatives but what would be the results of a $6 million cut.

Mr. WHITESIDE. We would certainly lose ground, yes. Because costs have gone up during the year that's past, and it would become very, very difficult. We've added some important, sophisticated staff skills to take on the additional responsibilities. We've refocused ourselves more into multifamily. To undo all of that, to go back to a lower level than in 1989 would be a significant problem.

FORECLOSURE INTERVENTION STRATEGY

Senator MIKULSKI. I have other questions that I'm going to submit for the record related to mutual housing and so on. But I'd like to come back to some of the ideas you talked to us about last year, certainly the capacity building that we know that the agency undertakes and also the early intervention strategies in foreclosure areas, and so on. In fact, we were so encouraged about that, we of course asked the VA to be in contact with you.

I'd like to talk a little bit about your strategies on foreclosure intervention over the next year. Do you have a strategy for foreclosure intervention in dealing with HUD and Resolution Trust?

Mr. WHITESIDE. Yes; we have. We have actually several substrategies in that area. First let me mention something that I have slighted thus far in my comments. Of the 265 neighborhoods we serve, 140 of those neighborhoods have an average home price of $40,000 or less. So it's still possible to bring low- and moderate-income families into homeownership. We're doing a great deal with single family and one- to four-family foreclosed properties that are in the hands of HUD, and the VA.

RTC, HUD, AND VA PROPERTIES

Senator MIKULSKI. All right, but tell me what your specific goals and strategies are, sir, on the foreclosure intervention in HUD and Resolution Trust. What specific strategies will you have?

Mr. WHITESIDE. Let me move to the Resolution Trust. If you are familiar with their white book and their orange books?

Senator MIKULSKI. No, I'm not.

Mr. WHITESIDE. The Resolution Trust Corporation has a thin white book of properties that are available to nonprofits or will be available shortly when they sound the signal. They have some telephone-book-sized books of properties that are still, in many cases, in the hands of an ailing S&L. These are listed with the name of a broker who's handling the real estate they own.

Our strategy, after we looked at the properties and the apparent condition of those in the nonprofit group, has been to go straight to the place that a private developer would go. Go to the properties that are available right now to the highest bidder and to put in a bid. We've found that it's possible to get a very good response and some very low values, as I cited earlier.

Our strategy is not to wait until RTC is ready with a flow of properties for nonprofits, but to move out into the private world, if you will, and take advantage of the opportunities that are there right now.

In terms of HUD properties, a large number of our NHS's, perhaps the majority of them, are dealing with HUD at the local level on the one- to four-family properties. At a program's request, we, as a corporation, provide technical assistance/staff expertise, but don't particularly get involved.

Regarding a strategy with the VA, we had a meeting with people from the Veterans' Administration. George Knight represented us at that meeting. I'd like him to tell you the results of that.

Senator MIKULSKI. When you do, Mr. Knight, would you also tell us why you only had one meeting in 9 months and that VA feels that there was little interest in pursuing this strategy?

COLLABORATION WITH VA

Mr. KNIGHT. That surprises me. Two of us met with Tom Mayer, Assistant Director for Property Management, and Leonard Leedy, Assistant Director for Loan Management. We discussed collaboration. We talked about how the VA is structured and how they process their property. They do it through a set of district offices at a very localized level. We described neighborhood housing services, and our approach, which is basically that the local NHS looks at the properties in a neighborhood and puts in bids.

We agreed that this process, since it was local, was probably the best process, and that we would stay in touch if there was any difficulty that a particular NHS had in acquiring a VA property.

In working with the NHS's, they're well aware that if there's a difficulty, we now have a national contact with the VA. We shared information, traded names of regional and district people, and I felt that we are in a good place if there's a difficulty.

As Bill mentioned, most of the small local property acquisitions are handled by the NHS's; we're not aware of them all and we don't attempt to track them. We only attempt to get involved if there's a difficulty. So far, I'm not aware of an NHS having a particular difficulty with a VA property.

Their property lists, as you're probably aware, in pattern coincide with the RTC's and HUD's, the private insurance companies, and the major banks' property lists. They're all concentrated in the same parts of the country.

ROLE OF FEDERAL GOVERNMENT

Senator MIKULSKI. Well, there are two issues. First, let me tell you what I'm getting to and then—I know that the administration has a concern, as does Senator Garn and myself, that the large amount of mortgage guarantees the Federal Government holds. Whether that's FHA, VA, we could go through a series of them. At the same time, we're not going to be holding the Resolution Trust properties.

The Federal Government doesn't want to be the biggest Simon Lagree as the forecloser, No. 1. No. 2, we don't want to be holding these large stocks of housing. It's not in our fiscal interest or in our humanitarian interests. So what we're really looking to is the strategies that would deal with that.

WHY PROPERTIES ARE FORECLOSED

Now, why properties are foreclosed are because of unintended economic conditions that just blow the market out in communities; oil patch States being an example. Others are people who've just not been prepared for homeownership and because particularly VA and FHA provides, hopefully, an easy entry, sometimes the entry is without advice or counsel, and again, you would understand that because of your own extensive work.

Those are the two conditions. What we're looking for, and I know with the VA, not only for the oil patch States and the neighborhood housing, but the things that you had talked about about that early intervention where the strategies you have when people begin to fall behind, before a crisis, so that we're not dealing with crisis intervention for either a family or for the Federal Government.

What goes for that and really VA has not focused a lot on their mortgages, they've been fairly good until bad times came. Vets have been a very reliable group of men and women. So I think that's where it is. I'm not going to spend a lot of time in this hearing but I would really like to see an outline of what you hope to do in HUD, Resolution Trust, and perhaps you could pick up with VA. I think there needs to be training at the regional level in this or even helping them set up some management mechanisms, particularly where it is the individual family problems rather than the severe economic problems that have to be dealt with on a much larger scale. We know NHS's are doing a good job. In fact, we noted in your testimony that 90 had grown up to be self-sufficient. We note Tom Adams here, an early SECO man, and so on and so on.

But you see what we're getting at, and for many, that is our purpose and I think one of the important national contributions you could make if we could deal with the prevention of foreclosure, particularly when it's not related to a severe economic situation, I think would really be important.

Senator Garn, I'm sure the Administration's spoken to you, too, about holding this paper and I know because you've helped on the S&L and——

Senator GARN. Absolutely. That inventory with what RTC is getting involved in is growing so incredibly huge that it becomes a really big big problem.

FORECLOSURE PREVENTION

Mr. WHITESIDE. Madam Chair, if we may, I'd like to submit for the record what we're doing in the area of foreclosure prevention. We do have an interesting report for you on that.

[The information follows:]

ACQUISITION OF FORECLOSED PROPERTIES

Neighborhood Reinvestment's strategy to assist local Neighborhood Housing Services in utilizing foreclosed properties held by the RTC, HUD, VA and others is summarized in the following five steps.

Step One-- Assemble Tools. (1990 activity and continuing)

-- Secure conventional lender support for effort.

-- Secure a readily available source of "risk" funds for pre-acquisition and acquisition costs.

-- Secure readily available sources of equity funds.

-- Identify other sources of acquisition and below market lending; city/state housing authorities and community development agencies are excellent prospects.

Step Two -- Field Review Properties. (1990 activity and continuing)

-- RTC: properties from institutions in both FDIC receivership and conservatorship.

-- Other federal agencies: HUD and VA principally.

-- Secondary markets: Freddie Mac and Fannie Mae.

-- Local lenders' owned real estate.

-- Other entities holding property including, local government, partnerships, corporations.

Step Three -- Assess Feasibility and Secure Properties. (1990 activity and continuing)

-- Strengthen local board and staff capabilities.

-- Willingness of city/lender partners.

-- Physical review of building
-- If building occupied, canvass tenants to initiate participation.

-- Project economic feasibility.

-- Secure control during period of intense feasibility testing.

Step Four -- Take Possession of Properties (1990 and 1991 activity based on 1990 efforts)

-- Implement physical improvement plan.

-- Implement NHS/Mutual Housing Association organizational and capacity development efforts, if necessary.

-- Finalize financing and close once rehabilitation is complete.

Step Five -- Operate Units. (some 1990 activity, heavy activity 1991 and continuing)

-- Property management plan in place.

-- Accounting system capable of tracking financial results.

-- Organization business plan for future development of building and organization.

In 1988, fewer than 10 NHSs and Mutual Housing Associations were active in long term holders of affordable housing units. Through the technical assistance efforts of our staff and the increased resources available in FY 1990, the NeighborWorks network is actively exploring $100,000,000 in projects totalling 4600 units.

HUD PROPERTIES

Senator **Mikulski**. Actually looking at your strategies in both types of precipitating factors, we'd welcome that.

The other is that we know that for those who want to get out of the 221 D3's and so on, that the nonprofits will have the right of first refusal to come in and perhaps take over a multiple family dwelling and so on. Our concern there again is capacity building which Neighborhood Reinvestment is noted for. It's nice, but the right of first refusal can either be a bumper sticker and a slogan or it can be a public policy that empowers people and leads to self-sufficiency.

My concern is that we'll say, OK, we'll turn it over to a nonprofit. That's a lot of work that goes into creating it, building it, and so on.

Have you all been involved in that consultation with HUD? Are you working at that?

Mr. **Whiteside**. Let me share a dilemma with you on that, and perhaps——

Senator **Mikulski**. I'm not trying to make you a subsidiary of HUD. But, again, we're in some major policy changes, reversion of housing back to the Federal Government, people buying out, moving to nonprofit, and I want to be sure the capacity is there to deal with it.

Mr. **Whiteside**. Our dilemma is that there are a great many nonprofits that would like to take advantage of this right of first refusal. A number of them have talked to us about technical services. We have opened up our training on a space-available basis to nonprofits that are not currently part of our network. But we feel a certain responsibility to the organizations that we've brought into existence to keep our technical services available to them. Frankly, to take on dozens or hundreds of other nonprofits as recipients of our services would require a source of funds, either in the appropriations or through fees or some other basis. We are not closed to that but it's a question of the practicality of how do we do it. We think it's something that we'd like to do and ought to do, but we haven't figured out how to fund it.

Senator **Mikulski**. Well, have you done an internal paper on this? I'm sure people are calling you, everything from current tenants who would become almost like their own co-op or whatever, to an existing nonprofit like the St. Ambrose Housing or something like that.

Mr. **Whiteside**. We'd be happy to submit something like that.

Senator **Mikulski**. I'd like to see that.

[The information follows:]

STRATEGY: "EXPIRING USE" BUILDINGS

BUILDING SIZE AND AGE

Regardless of acquisition price, the building's size and age are critical assessment factors. The age will determine the extent of rehabilitation. If there is an extensive amount of rehabilitation then the cost is very high per unit.

The size is important for long term financial feasibility and property management planning. In most cities, on a building with below 100 units, the NHS should consider the building too small to operate as its only rent/mutual units. To be economically efficient, more units would need to be added. On the other hand, when the size approaches the building currently being assessed by the Chicago NHS -- 744 units -- then the scale is so daunting that the NHS should consider a separate corporation for the project with its own board, detailed management plan and long term financial plan.

The location of the building relative to the Mutual Housing Association or the NHS neighborhood has a bearing on its ability to manage the property. Often these opportunities/challenges/dangers are the catalyst for the NHS moving toward creating a Mutual Housing Association or a separately functioning affordable rental property subsidiary.

COST/AFFORDABILITY RELATIONSHIP

In situations where total costs (acquisition, rehabilitation, and financing charges) can almost be carried by the rents, then the NHS in partnership with public agencies and a conventional lending source should be able to create an acquisition strategy-- organizational and financial -- that will work for the benefit of the occupants, neighborhood and the NHS/Mutual.

In those situations where the total costs are beyond local resources, we have not seen strategies that are possible for NHSs or Mutual Housing Associations or most likely any other nonprofits. City resources are thin and buildings in locations where requiring extensive rehabilitation or are acquisition costs are many times current rent roles, are financially infeasible for most nonprofit organizations. Neighborhood Reinvestment looked at a building in Minneapolis that would have required most of the city's CDGB allocation for a year to even come close to handling -- and the owner was cooperative and not selling for top dollar.

In many situations, the "right of first refusal" is more slogan than substance.

The pre-acquisition funds that Neighborhood Reinvestment has been able to make available to NeighborWorks organizations are critical to testing the feasibility of a project before expectations develop that this building can be saved with what turns out to be unrealistically low infusions of capital. In Chicago, we are advancing, on a reimbursable basis, up to $65,000 for engineering studies and other pre-acquisition legal work on the building prior to serious discussion with the City.

Some general approaches to financing options that could be made available to nonprofits:

-- HUD "take-back" financing at affordable terms. This could be tailored to each building.

-- Tax advantages to owners to convert their buildings for maintaining 50% low- to moderate-income occupancy.

-- Tax costs for conversion.

-- Appropriation to HUD or Neighborhood Reinvestment to use for equity infusion sufficient to operate for affordable rent.

Requests for Technical Support from other Community Groups

Our staff is continually approached by other community groups seeking assistance -- both financial and technical. Many staff provide quick advice and some meet with the groups on their own time. However, Neighborhood Reinvestment is stretched quite thin and can do little beyond making training slots available in training Institutes - at cost - for nonprofit organizations which are not NeighborWorks members.

The ability of a nonprofit to take advantage of the "right of first refusal" option depends greatly on the capacity of the organization and the resources available to it. Neighborhood Reinvestment's time and resources are currently insufficient to meet the "expiring use" opportunities available to NeighborWorks programs.

Senator MIKULSKI. Well, Mr. Whiteside, Neighborhood Reinvestment does so many interesting things, we could talk all day with you. We do have some questions we are going to submit for the record. We have to move on to Selective Service, but we're going to draft you in dealing with this foreclosure issue. We thank you for your testimony and we hope we can hold the line, if not do better on your budget.

Mr. WHITESIDE. Thank you very much.

Senator MIKULSKI. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing but were submitted to the Corporation for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Prioritizing the Success Rates of Major Activities

Question: If you had to compare the effectiveness of each of these various activities, that is -- generating the most low-income housing for the least amount of federal funds, how would you rank them and why?

Answer: The three major activities -- secondary mortgage market, revolving acquisition fund, mutual housing association -- are so closely interrelated that is virtually impossible to rank them in terms of effectiveness.

Mutual Housing Associations are a vehicle for people who cannot afford to buy a home, but who can enjoy most of the benefits of homeownership by belonging to an Association which owns the property. A major purpose of the revolving acquisition fund is to provide an existing Association with the resources to acquire property. In this current fiscal year, two-thirds of secondary mortgage market activity will be in providing below-market second mortgages to leverage the large amounts of capital that are necessary in order to acquire and produce the units that are operated by Mutual Housing Associations.

For the purpose of large scale housing development activity, these three activities are mutually dependent on each other to achieve the desired result -- housing affordable for low- and moderate-income families.

Question: Are there regions of the country where one of these 3 activities seems to be particularly more effective than another? If so, why?

Answer: As an overall strategy the combination of these three activities is proving highly effective in the southwest section of the country, particularly in Texas. Due to the depressed economy in this area of the country, units are available at reduced prices.

Question: If you could receive $5 million above the 1990 appropriation, how would you divide it between these 3 activities and why?

Answer: An additional $5 million above the FY 1990 appropriation would be divided among the three activities -- secondary mortgage market, mutual housing, revolving acquisition fund -- as follows:

$2 million for secondary mortgage market which would be used for forward commitments and for guarantees in order to purchase more than 50% of loan portfolios of very active NHS programs working in very tough neighborhoods where rehab costs are high and residents are predominantly low income.

$2.5 million for mutual housing for capital grants. We will be starting 6-8 new Associations before fiscal year end and none will be undertaken without projects in hand. These projects will be organized around production and resources will be needed at the table early in the process.

$500,000 for the revolving acquisition fund.

If the question had included a fourth option, we would have provided $250,000 for additional technical assistance in financial management, and only $250,000 for the revolving acquisition fund. The revolving acquisition fund was relatively well provided for in our budget justification, and some of the reimbursable grants should be available for recycling in FY 1991. On the other hand, technical assistance needs in the area of financial management would escalate as a result of the increased activity generated by an additional $5 million.

Revolving Acquisition Fund

Question: Given the enormous interest in this new area of your agency's work, how will you select grant recipients in order to guarantee that these projects have the greatest chance to succeed?

Answer: Criteria have been developed which gives weight for considerations such as:

- Projects utilizing foreclosed property (particularly property owned RTC or HUD).

- Projects facing HUD "expiring use" provisions.

- Economic "attractiveness" of project -- acquisition price, leverage of grant funds, existing or available financing, re-use of vacant property, etc.

- Income level served -- requiring a minimum of 80% of median, with priority for viable projects serving the lowest % or median.

- Capacity of the local NeighborWorks organization to develop and operate the property.

In addition to the above criteria, we are requiring that grants be limited to "ready to go" projects (i.e. a solid proposal for a specific property). Each specific real estate project is being reviewed by a group of technically skilled Neighborhood Reinvestment and NHSA managers who comprise our "Capital Committee".

Question: From what states are these grant requests concentrated -- the oil patch, inner cities, the Farm Belt or somewhere else?

Answer: To date, there has not been a particular concentration in these grant requests. We have received requests from each of the above areas, as well as from other rural areas.

Grants awarded to date, have been primarily in inner cities and in the oil patch.

Question: What are your specific goals and strategies on foreclosure intervention over the next year in dealing with both HUD and the Resolution Trust Corporation?

Answer: Neighborhood Reinvestment's role with the Resolution Trust Corporation (RTC) involves facilitating acquisition of foreclosed properties only.

In terms of preventing foreclosures, Neighborhood Reinvestment has developed a model which has been adopted by the NHS in Colorado Springs, Colorado. The model is designed to address properties with mortgages held by HUD, VA and conventional lenders. HUD funding of counselling costs will be sought. During fiscal year 1990, it is our goal to replicate this strategy in three additional sites. At this time, Neighborhood Reinvestment does not have a national strategy in place with either HUD or the VA, rather work with both these agencies is done at the local level.

The replication of the foreclosure intervention strategy includes the following stages:

a. Identification of NeighborWorks neighborhoods that may need a foreclosure intervention program. This includes evaluating the phase of the "foreclosure problem" that their city is experiencing.

i) pre-crisis Phase: there are early warning signals that the city is in danger of delinquencies and foreclosures, such as a major economic down turn caused by a plant closing or a sudden dip in the real estate market.

ii) mid-crisis Phase: some vacancies and high delinquencies exist. A large percentage of people have lost their jobs or have taken cuts in pay.

iii) post-crisis Phase: a large number of vacancies exist due to foreclosures or people abandoning their homes.

b. In sites in phases i) and ii), assessing conditions, including: the probability that foreclosures will happen, number of existing foreclosures, delinquency problems, support from lenders, support from city government, existence of foreclosure counseling services already in place, existence of financial resources to support the program.

c. Selecting the sites.

d. Developing a strategy tailored to the situation of the local economy. This could include:

i) building a loan fund to be used to help individuals catch up with mortgage payments.

ii) establishing and providing counseling services to help individuals negotiate with lenders to re-structure their financial situations.

iii) establishing a community education program to inform the community of the intervention possibilities and to prevent further abandonment.

Mutual Housing

Question: Your testing states that 1000 units of housing will be under the management of Mutual Housing Associations by the end of 1990. Which MHA's will acquire new units this year and what percentage increase over 1989 in the number of units will this "1000 unit level" represent?

Answer: 1989 information is as follows:

Location	Occupied Units Under MHA Management	Units in Development
Baltimore	40	51
Lower East Side	--	48
Austin	122	278

This would mean that there was a total of 162 units "under management of Mutual Housing Associations" at end of 1989.

By the end of 1990, the following is anticipated:

Location	Occupied Units Under MHA Management	Units in Development
Baltimore	49	51
Lower East Side	--	48
Austin	400	200
San Antonio	300	
Hartford	42	198
Sacramento	36	
Ithaca	14	
Stamford		70
Houston and/or Dallas	300	

The "1000+ unit level" in 1990 will represent an 600% increase over 1989.

Question: If you select 6-8 new MHAs in 1990, how much additional capacity (in terms of units) will that add to the Mutual Housing network and when would the addition of these new units be completed?

Answer: This is difficult to answer. Mutual Housing Associations operate in diverse environments, and the specific strategies they utilize (and their resultant production levels) are affected by issues such as the local economy, local housing needs, and , above all, low-cost capital resources. In some areas, new construction makes the most sense; in other areas, rehabilitating severely deteriorated buildings would provide the greatest impact; in still other areas, the acquisition of reasonably maintained foreclosed properties (from the RTC inventory and other sources) is the most feasible alternative.

In the case of new construction or major rehabilitation of property, it may be two years or more before a new Association's first project of perhaps 50 units is completed. In an environment such as Texas, where Mutual Housing Associations are concentrating on acquiring foreclosed properties, an individual Mutual Housing Association might add 200 to 300 units in the course of a year.

One could assume, that on average, new Mutual Housing Associations would add 75 additional units a year for each of the next five years.

Question: How will you select these new associations? Is there a competitive selection process, and if so, what criteria are used?

Answer: Criteria have been developed and are being applied to the selection process. The criteria is first applied within a "market area". This may represent a general metropolitan area, a city, or a portion of the city. The criteria becomes increasingly specific as it is applied to "neighborhood selection", and then to "site selection". (A copy of the criteria and of the assessment process are attached).

An announcement regarding Neighborhood Reinvestment assistance in developing new Mutual Housing Associations was placed in the Federal Register, and a response plan was designed and implemented. Over 200 serious requests for assistance are currently in process of being assessed.

A "competitive selection process" will be used to select 3 to 5 of the sites, however, our corporate strategic planning process has targeted up to 3 sites in the oil-producing states because of the large amount of foreclosed properties in that area of the country.

The foreclosed properties present a major problem to the neighborhoods in which they are located. They also provide a unique opportunity to develop low -income housing units at minimal public cost, by acquiring properties at less than 50 cents on the replacement dollar.

Question: The 1991 budget proposes a cut of roughly 11% in mutual housing activity. What would be the impact of this kind of cut?

Answer: Clearly, our activity in this important area would be reduced by approximately the same percentage. The reduction of activity will be spread among the following areas:

Development of new Mutual Housing Associations:
Reduced by one or two. (Will develop 4-6 new Associations).

Technical assistance to existing Mutual Housing Associations:
There will be minimal reduction in this area.

Capital for Mutual Housing Association real estate development:
The most significant reduction in funds will be in this area. The impact will be that it will take a longer period of time for newly developed Mutual Housing Associations to reach the scale of operation necessary to have real estate generated revenues cover the organization's operating expenses. A reduction in this area will also mean that 200 to 300 fewer lower-income housing units will be made available through Mutual Housing, compared to the 1990 production.

Secondary Mortgage Market Activities

Question: In 1990, you will be using your secondary mortgage market funds for brokering loans on multi-family real estate for the first time. In what part of the country will this be occurring and what kind of projects are we talking about--unsubsidized, section 8, 221 (d)(3) or 236 prepayment units, or something else?

Answer: In tandem with Mutual Housing Association activity and the Revolving Acquisition fund, secondary mortgage market funds are being used to purchase and place loans on multi-family real estate. This activity is primarily occurring in inner cities and in the oil patch. These projects include foreclosed properties, "expiring use" and privately owned properties subject to foreclosure.

Question: Could you elaborate on how this activity will leverage the additional $100 million in loan and grants from other sources for multi-family real estate projects?

Answer: Attached are two charts which itemizes $100 million worth of housing development strategies which have been analyzed and structured to assure long term viability and security for low- and moderate-income residents. These developments would include almost 4,000 units of housing.

These developments would not have been even seriously considered by the local NeighborWorks partnership organizations were it not for the recently created resources by Congress of the multi-family secondary market capacity within NHSA, the Revolving Acquisition Fund and the new grant resources for Mutual Housing Associations. These resources make it possible to provide critically missing financing pieces and/or leverage the availability of other local financing; and the staff capacity within the Network to assure the long term financial viability- for lower income use - of the developments.

As a proven example of how NHSA's expanded resources and technical capacity is leveraging local resources, in Baltimore, Maryland NHSA's new Real Estate Housing Development staff worked with the Mutual Housing Association staff and leadership to reevaluate and restructure the financing needed to undertake the construction of a 48 units town home development. But the key to the project's ability to move forward was NHSA's securing a $500,000 forward construction loan commitment by creating an intermediate lending relationship with the National Coop Bank Development Corporation. The NHSA loan commitment not only leveraged the $2.3 million in State and City funds, but also made it possible for the Association to close a $500,000 first mortgage with a local bank.

It is important to stress the need for realistic expectations with significant housing development initiatives.

-- Neighborhood Reinvestment's objectives go beyond the immediate production of units to the need to assure the long term viability of the developments and affordability for low- and moderate-income use. Thus, Neighborhood Reinvestment and NHSA are investing significant staff time in the evaluation and structuring of the developments.

-- Housing development requires at least 18 to 24 months time from identification of the opportunity through the completion of construction.

-- Given the absence of any other secondary markets for lower income multifamily development, it is taking painstaking energy to identify placement opportunities for NHSA's loans.

-- NHSA's limited leverage capital does not come close to meeting the need, but what it is doing, in combination with the Revolving Acquisition Fund and newly accessed staff expertise, is creating the confidence for nonprofit organizations to even contemplate undertaking major development efforts to save affordable housing, as well as structuring developments that are financially viable for the long term and thus merit the consideration of other financing sources.

Question: Your 1991 budget request would reduce your secondary market activities by $1.3 million, a cut of 36%. What's the impact of this large of a cut?

Answer: The impact would be significant. A $1,280,000 cut in funds to the secondary market would reduce loan purchases and multifamily originations by a least $10.9 million in FY 1991. In order to lessen the negative impact, NHSA would try to reach out to foundation and corporate communities for low interest loans so that they could at least warehouse loans for a year. It should be noted, however, that NHSA would not be able to sell these loans to "social investors" due to the lack of leverage capital required for guarantees and interest rate subsidies; rather NHSA would have to hold the loans in-house until additional leverage capital was available.

The disappearance of this capital risks freezing the current activity underway and dampening NHSs' confidence in attempting initiatives to protect lower income housing at risk of loss or create new units for disadvantaged Americans.

Significant housing development initiatives require 18 to 24 months development time. A freeze to activity currently in the pipeline and new initiatives started with revolving acquisition fund assistance may bring a halt to much of the $100 million activity itemized on the foregoing charts. These are housing development initiatives which have been carefully analyzed and structured to assure their long term viability.

IN-PROCESS
GENERAL DATA REPORT

NeighborWorks Network

Attachment

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
ABERDEEN, WA	1/89		13	0	Detach 1-4 Normal	Part Occpd	Negot'n	NWO/Sub Corp NWO/Sub Corp	Acquisition and rehab of 8 single family houses and 1 four family house to create 13 units and day care space.
AUSTIN, TX	10/89		92	0	Garden Normal	Occupied	Contrct	Mutual Mutual	This project involves the acquisition of an occupied building & does not require any major rehab.
AUSTIN, TX	10/89		38	0	Row/Townhs Normal	Part Occpd	None	Mutual Mutual	Project involves the acquisition of a substantially occupied property requiring minor rehab.
AUSTIN, TX	10/89		148	0	Garden Normal	Occupied	None	Mutual Mutual	Project being resubmitted
BALTIMORE, MD	1/90		48	0	Row/Townhs No Acqstn	Vacant		Mutual ~~Othr Non-Prft~~	
BALTIMORE, MD	1/90		23	0	No Acqstn			NWO/Sub Corp	Scattered site rental rehab.
CAMBRIDGE, MA	1/90		9	0	No Acqstn			Othr Non-Prft	

IN-PROCESS
GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
CAMDEN, NJ	7/89		17	0	Row/Townhs Foreclosed	Vacant		Othr Private Private	Equity $ includes a $35,000 Neighborhood Reinvestment grant.
CHICAGO, IL	9/89		744	10	Elevator Normal	Occupied	Negot'n	NWO/Sub Corp Private	Project involves the acquisition of an occupied 221(d)3 "at risk" property requiring moderate rehab.
CHICAGO, IL	1/90		70	0	Detach 1-4 No Acqstn			Othr Private Private	Homeownership Purchase Program.
CHICAGO, IL	9/89		78	0	Row/Townhs Normal	Occupied	Negot'n	NWO/Sub Corp NWO/Sub Corp	Project involves the acquisition of 7 occupied properties with Section 8 contracts which require moderate rehab.
DALLAS, TX	4/90		20	0	Garden No Acqstn	Occupied	Negot'n	Mutual Mutual	
DALLAS, TX	1/90		18	0	Garden Foreclosed	Occupied	Negot'n	Mutual Mutual	RTC controlled sale; TMRC offer less than 95% of current appraised value; sale being held-up until property classified as affordable.
DALLAS, TX	1/90		35	0	Garden Foreclosed	Occupied	Negot'n	Mutual Mutual	RTC controlled sale; TMRC offer less than 95% of current appraised value; sale being held-up until property clas as affordable.

IN-PROCESS
GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
DALLAS, TX	1/90		252	0	Garden Foreclosed	Occupied	Negot'n	Mutual Mutual	RTC controlled sale; $1,600,000 offer rejected. No further activity at this time.
DALLAS, TX	1/90		69	0	Garden Foreclosed	Occupied	Negot'n	Mutual Mutual	Lender owned property. Offer of $690,000 being considered.
DETROIT, MI	1/90		20	0	No Acqstn			Othr Private Private	Scattered site single family rehab.
FORT WORTH, TX	1/90		25	0	No Acqstn			Othr Private Private	Scattered site single family rehab.
GREAT FALLS, MT	4/90		24	0	Row/Townhs Normal	Vacant	Own	Mutual Mutual	8 - 1 bedroom; 8 - 2 bedroom; 8 - 3 bedroom; New construction. $14-19,000 income target.
HOUSTON, TX	4/90		94	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned. Expect TMRC to offer $800,000.
HOUSTON, TX	4/90		129	0	Row/Townhs Foreclosed	Part Occpd	Negot'n	Mutual Private	RTC controlled sale. Expect TMRC to make offer.

IN-PROCESS
GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
HOUSTON, TX	4/90		130	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned. Currently under contract.
HOUSTON, TX	4/90		170	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned; Expect TMRC to offer only enough for seller to cover closing costs, approximately $50,000.
HOUSTON, TX	4/90		313	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned. Expect TMRC to make offer soon.
HOUSTON, TX	4/90		199	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned. Currently under contract.
HOUSTON, TX	4/90		184	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Private	Lender owned. Currently under contract.
JERSEY CITY, NJ	1/90		8	5	No Acqstn			Co-op	Equity $ includes $60,000 NR grant and $109,000 NHS equity.
JERSEY CITY, NJ	1/90		11	1	No Acqstn			Co-op	
JERSEY CITY, NJ	1/90		36	0	No Acqstn			NWO/Sub Corp	

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GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
KANSAS CITY, MO	9/89		38	0	Walkup Normal	Occupied	Own	NWO/Sub Corp NWO/Sub Corp	Project involves the rehabilitation of 2 occupied properties owned by the NHS & the acquisition of 6 privately owned properties. There are HUD 312 loans on 6 of the 8 properties.
KANSAS CITY, MO	9/89		12	0	Walkup Normal	Occupied	Own	NWO/Sub Corp NWO/Sub Corp	Project involves the refinancing & rehab of a property currently owned by the NHS & the acquisition of an adjacent property.
KANSAS CITY, MO	1/90		12	0	Walkup No Acqstn	Occupied	Own	NWO/Sub Corp NWO/Sub Corp	Refinance 2 NHS owned & managed 6-plexes.
KANSAS CITY, MO	2/90		16	0	Row/Townhs No Acqstn	Vacant	Own	NWO/Sub Corp NWO/Sub Corp	New construction. Possible tax credits; Requesting pre-development $.
KANSAS CITY, MO	5/88		43	0	Garden Normal	Vacant	Negot'n	NWO/Sub Corp NWO/Sub Corp	Project involves the acquisition of a privately owned vacant apartment house requiring substantial rehab.
LA HABRA, CA	1/90		13	0	Row/Townhs No Acqstn	Vacant	Own	NWO/Sub Corp	New rental townhouses

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GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
LA HABRA, CA	1/90		8	0	Row/Townhs No Acqstn	Vacant		Othr Private Private	Homeownership; 8 - 10 new townhouses.
LA HABRA, CA	1/90		37	0	No Acqstn			NWO/Sub Corp	
LAWRENCE, MA	1/90		60	0	No Acqstn			Othr Private Private	Project consists of 20 scattered 3 family units.
NEW YORK, NY	9/86		48	0	Elevator Foreclosed	Vacant	Contrct	Mutual Private	Construction loan approved by local lender; Site to be sold to LESMHA after public hearing on May 24th.
NEWARK, NJ	11/89		1	0	Detach 1-4 Foreclosed	Vacant		Othr Private Private	The NHS is requesting a $30,000 grant from NR/NHSA to be used as a below market interest rate construction loan fund.
NEWARK, NJ	6/89		27	0	Walkup Foreclosed	Vacant	Own	Mutual Mutual	The AIP is requesting a grant in the amount of $52,800 to be used for pre-development costs.
NEWARK, NJ	4/90		17	0	No Acqstn			NWO/Sub Corp	

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GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
NIAGARA FALLS, NY	9/89		36	17	Elevator Normal	Vacant	Option	NWO/Sub Corp Private	Project is a luxury/ affordable/retail/office mix. Exec. Director is negotiating with NY State & the City for funds. Program waiting for a $25,000 NR development grant.
OAKLAND, CA	1/90		20	0	No Acqstn			NWO/Sub Corp	20 - 30 new rental units.
OAKLAND, CA	1/90		30	0	No Acqstn			Othr Private Private	Project consists of 10 new units & 20 rehab units.
PASADENA, CA	1/90		12	0	No Acqstn		None	NWO/Sub Corp	
PASADENA, CA	1/90		7	0	Row/Townhs No Acqstn	Vacant		Othr Private Private	
PASADENA, CA	1/90		3	0	Row/Townhs No Acqstn	Vacant		Othr Private Private	
PHOENIX, AZ	4/90		60	0	No Acqstn			NWO/Sub Corp	

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GENERAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	PROJ START DATE	PROJ END DATE	# OF HOUSNG UNITS	# OF COMMER-CIAL UNITS	HOUSING TYPE & ACQUSTION INFO	OCCUPANCY	STATUS OF SITE CONTROL	INTENDED: OWNERSHIP & MANAGEMENT	PROJECT DESCRIPTION / COMMENTS
SACRAMENTO, CA	12/88		36	0	Garden Foreclosed	Vacant	Own	NWO/Sub Corp Private	
SAGINAW, MI	1/90		6	0	Detach 1-4 No Acqstn			Othr Private Private	6 - 20 single family units.
SAN ANTONIO, TX	1/90		138	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Mutual	RTC controlled sale.
SAN ANTONIO, TX	3/90		30	0	Garden Normal	Occupied	Negot'n	Mutual Mutual	Private owner willing to sell.
SAN ANTONIO, TX	1/90		23	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Mutual	
SAN ANTONIO, TX	10/89		96	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Mutual	
SAN ANTONIO, TX	1/90		132	0	Garden Foreclosed	Part Occpd	Negot'n	Mutual Mutual	
*** GRAND TOTAL ***			3978	33					

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PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

Attachment

PROJECT LOCATION	$$ $$ $$ $ P R O J E C T	C O S T S	$ $$ $$ $$			$$$$ P R O J E C T	C A P I T A L	T O	D A T E		$$$
							<EQUITY>	<----- M O R T G A G E S ----->$			
	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
ABERDEEN, WA	9115	0	39693	4775	53583	53579	15887 C	10769 C 26923 C	9.000 0.000	25 25d	SEC PAC WASH HTF
AUSTIN, TX	17391	0	543	326	18261	18261	3043 P	13043 C 2174 P	8.000 0.000	30 0	TEXCOMRC NHSA
AUSTIN, TX	22658	0	1316	235	24209	24209	5263 P	13667 P 5279 P	9.250 7.500	25 25	LCL BANK ASTN MHA
AUSTIN, TX	6419	0	1689	241	8349	8350	2027 P	2606 P 3716 P	10.000 8.000	25 25	LCL BANK ASTN MHA
BALTIMORE, MD	0	0	60879	0	60879	60417	1042 P	10417 P 22917 P 25000 P 1042 P	0.000 0.000 0.000 0.000	0 0 0 0	CDBDC STATE HODAG CDBG
BALTIMORE, MD	0	0	58774	0	58774	60948	2174 P	41304 P 17470 P	0.000 0.000	0 0	 LITC
CAMBRIDGE, MA	0	0	85778	0	85778	0	0	0	0.000	0	
CAMDEN, NJ	4844	0	60289	20979	86112	85016	85018 P	0	0.000	0	
CHICAGO, IL	4834	11578	5305	2818	24536	24536	0	24536 P	7.500	40	TEB/FHA
CHICAGO, IL	0	0	62857	0	62857	57143	0	57143 P	0.000	0	

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PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

	PROJECT COSTS					PROJECT CAPITAL TO DATE					
							EQUITY	MORTGAGES			
PROJECT LOCATION	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
CHICAGO, IL	14103	0	6410	1923	22436	0	0	0	0.000	0	
DALLAS, TX	0	0	0	0	0	0	0	0	0.000	0	
DALLAS, TX	19059	0	1000	2085	22144	22144	3817 P	18327 P	8.500	20	NHSA
DALLAS, TX	9347	0	1000	1720	12067	12067	2080 P	9987 P	8.500	20	NHSA
DALLAS, TX	6717	0	4500	1186	12403	12403	1032 P	4854 P 6516 P	7.500 3.000	15 15	1ST GIBR ENTERPRI
DALLAS, TX	10000	0	0	0	10000	0	0	0	0.000	0	
DETROIT, MI	0	0	28000	0	28000	26600	0	26600 P	0.000	0	FNMA
FORT WORTH, TX	0	0	30000	0	30000	28500	0	28500 P	0.000	0	FNMA
GREAT FALLS, MT	2500	0	39900	3160	45560	40893	32119 P	7064 P 1710 P	5.000 8.500	25 25	AHP NHSA
HOUSTON, TX	12766	0	0	0	12766	0	0	0	0.000	0	

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PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

	PROJECT COSTS					PROJECT CAPITAL TO DATE					
							<EQUITY>	<----- MORTGAGES ----->			
PROJECT LOCATION	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
HOUSTON, TX	23256	0	0	0	23256	0	0	0	0.000	0	
HOUSTON, TX	19000	0	0	0	19000	0	0	0	0.000	0	
HOUSTON, TX	3824	0	0	0	3824	0	0	0	0.000	0	
HOUSTON, TX	10543	0	0	0	10543	0	0	0	0.000	0	
HOUSTON, TX	16583	0	0	0	16583	0	0	0	0.000	0	
HOUSTON, TX	8152	0	0	0	8152	0	0	0	0.000	0	
JERSEY CITY, NJ	0	0	47312	0	47312	47346	13000 P	22692 P 11654 P	0.000 0.000	0 0	NHSA STATE
JERSEY CITY, NJ	0	0	48765	0	48765	48765	1375 P	19679 P 17587 P 10124 P	0.000 0.000 0.000	0 0 0	 STATE CITY
JERSEY CITY, NJ	0	0	40158	0	40158	40158	0	11111 P 3321 P 7236 P 3333 P 15157 P	0.000 0.000 0.000 0.000 0.000	0 0 0 0 0	 COUNTY CITY CITY STATE

IN-PROCESS
PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

	PROJECT COSTS					PROJECT CAPITAL TO DATE					
							<EQUITY>	MORTGAGES			
PROJECT LOCATION	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
KANSAS CITY, MO	5899	0	11579	4286	21564	21564	2150 C	3838 C 3838 C 11737 C	8.000 8.000 3.000	30 30 20d	MHDC NHSA CITY
KANSAS CITY, MO	1250	16469	2900	1896	22515	22515	5172 C	17343 C	9.500	25	NHSA
KANSAS CITY, MO	0	11905	0	186	12090	0	0	0	0.000	0	
KANSAS CITY, MO	0	0	0	0	0	0	0	0	0.000	0	
KANSAS CITY, MO	1558	0	32442	11613	45613	45613	20278 P	15000 P 10335 P	0.100 7.000	30d 30	RNTREHAB AFF HOUS
LA HABRA, CA	0	0	90154	0	90154	0	0	0	0.000	0	
LA HABRA, CA	0	0	88000	0	88000	0	0	0	0.000	0	
LA HABRA, CA	0	0	38649	0	38649	0	0	0	0.000	0	
LAWRENCE, MA	0	0	13333	0	13333	12000	0	6667 P 5333 P	0.000 0.000	0 0	
NEW YORK, NY	1	0	84736	15315	100050	96627	16435 C	66963 C 13229 C	0.000 11.000	20d 30	NY STATE CPC

IN-PROCESS
PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

	PROJECT COSTS					PROJECT CAPITAL TO DATE	<EQUITY>	<----- MORTGAGES ----->			
PROJECT LOCATION	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
NEWARK, NJ	1	0	41850	19500	61351	30000	30000 P	0	0.000	0	
NEWARK, NJ	104	0	60370	14719	75193	75193	68145 P	7048 P	0.000	0	FF CDC
NEWARK, NJ	0	0	119424	0	119424	0	0	0	0.000	0	
NIAGARA FALLS, NY	18868	0	64038	17453	100358	37736	0	37736 P	0.000	0d	NY STATE
OAKLAND, CA	0	0	100000	0	100000	0	0	0	0.000	0	
OAKLAND, CA	0	0	40000	0	40000	0	0	0	0.000	0	
PASADENA, CA	0	0	68798	0	68798	37991	13408 P	24583 P	0.000	0	CITY
PASADENA, CA	0	0	110410	0	110410	145607	0	97464 P 21571 P 26571 P	0.000 0.000 0.000	0 0 0	 CITY LOCAL
PASADENA, CA	0	0	181028	0	181028	0	0	0	0.000	0	
PHOENIX, AZ	0	0	25000	0	25000	0	0	0	0.000	0	

IN-PROCESS
PER UNIT FINANCIAL DATA REPORT

NeighborWorks Network

PROJECT LOCATION	$$ $$ $$ $ P R O J E C T	C O S T S	$ $$ $$ $$			$$$$ P R O J E C T	C A P I T A L	T O	D A T E		$$$
							<EQUITY>	<----- M O R T G A G E S ----->$			
	ACQUSTN	REFINANCE EXISTING MORTGAGES	REHAB/ NW CONSTR	SOFT/ ALL OTHER	TOTAL PROJECTS COST	TOTAL PROJECT CAPITAL	AMOUNT/ STATUS	AMOUNT/ STATUS	RATE	AMRT PRD	SOURCE
SACRAMENTO, CA	17861	0	16990	4841	39692	39692	9607 C	10169 C 6166 C 13750 C	9.850 0.000 0.000	30 0d 0d	SAMCO TAX INCR SHRA
SAGINAW, MI	0	0	50000	0	50000	0	0	0	0.000	0	
SAN ANTONIO, TX	6307	0	1870	970	9146	9146	893 P	976 P 5778 P 1498 P	0.000 7.500 8.500	10d 15 7	CITY LCL LEND NHSA
SAN ANTONIO, TX	17500	0	0	0	17500	0	0	0	0.000	0	
SAN ANTONIO, TX	12038	0	717	665	13421	13421	3337 P	10084 P	8.500	20	NHSA
SAN ANTONIO, TX	3125	0	3893	1044	8062	8062	942 P	1992 P 3007 P 2122 P	0.000 2.000 8.500	10d 20 7	CITY SA TRUST NHSA
SAN ANTONIO, TX	5111	0	3636	1563	10310	10310	559 P	1861 P 6251 P 1638 P	0.000 7.500 8.500	10d 17 10	CITY LCL LEND NHSA
** TOTAL CATEGORY $:	9167	11659	18098	3118	23913	25667	6300	22268			
** TOTAL CATEGORY UNITS:	3434	778	2645	2128	3975	2364	1339	2346			

National Leadership Conference

Question: What were the results of your recent leadership conference and did you stay within the $500,000 budget you asked for on this project?

Answer: Participants at the National Leadership Conference attended several sorts of educational events: formal training sessions and clinics, general sessions with speakers, a regional networking lunch, and our "Walk Through America's Neighborhoods" resource center.

Each participant attended five formal training sessions, including an intensive clinic. They chose from ninety different sessions in the general skills areas on Nonprofit Management and Leadership Development, Communication, Public Relations and Marketing, Fundraising and Resource Development, Financial Controls and Responsibilities, Computer Uses, Neighborhood Planning, Community Issues and Solutions, Affordable Housing Strategies, and Commercial and Economic Development. Sessions were taught by experienced Neighborhood Reinvestment and NHS staff and by consulting experts.

Results of the Conference experience for participants include both the new and enhanced skills in all aspects of neighborhood revitalization, exchange of information regionally and nationally, exposure to new ideas, strategies and resources, and a remarkable increase in energy and enthusiasm for our work.

$535,000 was requested for the Leadership Conference from the training grant line. This cost was to cover the airfare and hotel accommodations for the participants. Out of this total, the Corporation spent only $385,030 for air travel and hotel. Other Leadership Conference costs were budgeted in other lines; a budget outlining total expenditures for the conference is attached.

Question: Isn't there a better educational and capacity building tool than some sort of conference, particularly given the small size of your agency's budget?

Answer: Our evaluation of our leadership conferences is that they are an effective educational tool for strengthening the NeigborWorks organizations. They provide training and networking for board members representing all network partnership groups (residents, business, local government) as well as for executive directors, and allow participants to see the larger picture and as leaders of each local organization, to address emerging policy and strategic issues.

We also conduct intensive training Institutes for NeighborWorks organization staff members, focused in the following areas: Commercial and Economic Development; Affordable Housing Strategies and Skills; Construction Service Delivery Skills; Computer Skills; Management Skills; Administrative Skills.

NEIGHBORHOOD REINVESTMENT
FY 1990 LEADERSHIP CONFERENCE
Washington D.C. January 1990

		ACTUAL
SOURCES OF FUNDS:		
	Registration Fees & Donations	$180,000
	Congressional Appropriation	764,294
	TOTAL SOURCES OF FUNDS	$944,294
USES OF FUNDS:		
	Professional Services *	$150,839
	Group Meals	242,993
	Printing and Supplies	104,588
	Equipment Rental	40,209
	Telephone and Delivery	9,279
	Ground Transportation	5,395
	Temporary Clerical Help	2,441
	Miscellaneous Other Expenses	3,520
	Training Grants:	
	Hotel Accommodations	157,883
	Transportation	227,147
	TOTAL USES OF FUNDS	$944,294

* Includes costs for display, equipment rental and entertainment for the "Walk Through America" and the NeighborWorks network's twentieth anniversay observance, which was underwritten by $100,000 from Social Compact donations.

Effect of New Housing Proposals on NRC

Question: Do you see any pending housing proposals as hindering the basic "capacity-building" mission of Neighborhood Reinvestment?

Answer: No, none of the current housing proposals will hinder our provision of capacity-building assistance to the NeighborWorks network. Neighborhood Reinvestment defines capacity building assistance as those services which increase the professional capacity of the local organization to serve its clients.

For example, an executive director might receive training in hiring and retaining a quality staff; an organization which is getting involved in affordable housing production might need technical and financial assistance to computerize its loan activities and other financial records for better fiscal management; or a resource development coordinator might be provided to help an organization build up its fundraising base.

In the Senate's primary housing legislation, S. 566, technical assistance grants are available to non-profits under the HOP program, for project-specific assistance for housing production.

The House bill, H.R. 1180, includes direct grants to non-profits for housing education and organizational support under Title IV, Community Housing Partnership. Section 412 and Sec. 423 (d) of that bill detail the eligible capacity-building activities.

As long as all organizations are able to compete for funding, these grants would only further enhance the capacity of the NeighborWorks network organizations and other community-based non-profit housing groups to serve low- and moderate-income clients.

Question: Do you have any suggestions to make these proposals more compatible with your basic capacity-building work?

Answer: The availability of additional resources in the area of capacity building for nonprofit organizations will only serve to enhance the capability of neighborhood-based organizations working to provide safe environments and affordable housing to low- and moderate-income Americans.

SELECTIVE SERVICE SYSTEM

STATEMENT OF SAMUEL K. LESSEY, JR., DIRECTOR

ACCOMPANIED BY HUNTINGTON BANISTER, COMPTROLLER

INTRODUCTORY REMARKS

Senator **Mikulski**. Now we welcome Mr. Samuel K. Lessey, the Director of the Selective Service System.

Mr. Lessey, Senator Garn has to leave but he says he already served. He went from being major to mayor, and—that wasn't bad.

Mr. **Lessey**. That's very good.

Senator **Mikulski**. But anyway, we want to welcome you and we recognize the importance of the readiness status in which the Selective Service provides our country, by preparing to supply the armed services with the personnel to defend the United States in a national emergency.

I'm concerned, however, about the continuing reductions in public awareness and mobilization readiness activities within the Selective Service. We know you try very hard, and we hope to review these issues.

Now, with the perception that the cold war might be coming to an end, I'm not so sure that there is the sense in the general public and young people that they're going to have to register. So we look forward to hearing your testimony and the resources that you will need in terms of your public information in reminding people of their constitutional duty. For those of us on this committee, we don't believe in no-cost democracy.

We look forward to hearing how we can support you.

Mr. **Lessey**. Madam Chair, we're delighted to be here. Mr. Huntington Banister, the Controller, sitting on my left is here again this year. My only regret about these annual meetings is that we wish we could see you more often. Our chance to communicate with you only once a year is less than desirable.

SUMMARY OF OPENING STATEMENT

I will submit my opening statement for the record, in the interest of time and convenience. Let me say that the statement essentially is in three sections. The first section addresses one of the questions you just raised; namely, the necessary enhancement of the mobilization capability in an environment when the Nation is drawing down its Active Forces.

The middle section of the statement generally concludes that financially we are squeezing by in spite of cost increases for which we in management have not been responsible. However, Selective Service suffers the problems of most small agencies in that two-thirds of our total costs are personnel-related costs. When costs are imposed upon us from outside, it does put us in a squeeze. For instance, we are currently looking at an absorption of $470,000 for this year's pay raise, which is a sizeable chunk out of a $26 million budget.

However, to help meet increased costs we have undertaken several management initiatives, such as our Registration Reminder Mail-back Postcard Program, our National Guard alignment, and our Reserve alignment. We're getting by at the moment but I believe it's my duty to make you aware that it is getting to be more and more difficult trying to make ends meet. We wouldn't want to have to cut costs much further because it may cause a deterioration in mobilization readiness and registration compliance.

The last portion of the opening statement calls your attention to the fact that this year we are commemorating our 50th anniversary of the passage of the Selective Service and Training Act, which was signed on September 16, 1940. I might mention that during that time period there has been registration the entire 50 years except for one very brief period in 1947 and 1948, and then in the period between 1975 and 1980.

Also, at this time, just by shear coincidence, our brand new annual report arrived this morning; and so, in terms of the vernacular, it is literally hot off the press. [Laughter.] In fact, it even has that pleasant printing press smell similar to that of a new car. In front of the report you'll find the opening statement of mine addressing the issue which you just raised.

With a certain amount of pride, I want to mention that we have complied with all of the requirements of the Joint Committee on Printing. It was with your help in changing our appropriation language that we were able to produce this first annual report on the operations of the Selective Service System. A little over a year ago, as we were developing our fiscal year 1990 budget estimates, we discovered that we were the only agency in town that was publishing semiannual reports, not counting the IG's. So this is our first one, in the same way that at our meeting last year you made history as the first chairwoman of a subcommittee in appropriations.

Happily, we have reduced our per-copy cost down from $1.45 in 1987 to 83 cents in 1988 to 60 cents in 1989, and this year's cost will be even lower than that. Much of these reductions are the result of innovations which were implemented by my staff, such as desktop printing. Barbi Richardson, sitting over there, essentially has done this entire thing herself along with Lew Brodsky. She's done a beautiful job and we're proud of her.

Why don't I stop right there, Madam Chair. If I've taken only 4 or 5 minutes, that's in keeping with our goal at Selective Service to do things more efficiently and on a timely basis.

[The statement follows:]

STATEMENT OF SAMUEL K. LESSEY, JR.

Madam Chair, distinguished members of the Subcommittee; it is a pleasure to be here today to testify on the Selective Service System's budget for Fiscal Year 1991.

The Agency is requesting $26,635,000 for Fiscal Year 1991. This level, reflecting a 2.8 percent increase over the current appropriation, provides for inflation computed in accordance with OMB's economic assumptions, and funds to purchase essential data entry hardware and software for the Agency's Data Management Center.

With the monumental changes occurring in the social and political fabric of Eastern Europe and the Soviet Union, and with the reduction in world tension, you hear very little about the mission of the Selective Service System these days. Indeed, this Agency's readiness to serve our nation in a crisis is often taken for granted. But even with its low profile, one should not underestimate the ability of the Selective Service System to play its pivotal and time-critical role, should diplomacy ever fail in our still imperfect world.

Today, there is talk about reducing defense expenditures and making the most effective use of scarce resources. In this regard, the Selective Service System provides America with a defense "insurance policy" at minimal cost. With its small annual budget, the Selective Service System maintains for our country the capability of rapidly mobilizing national manpower. Specifically, during a national emergency, the Agency gives America the ability to provide as many men as necessary from among over 14 million registrants, 18 through 25 years of age. Because of peacetime registration, Selective Service could begin the notification and induction process immediately after receiving Congressional and Presidential authority.

As the nation contemplates reductions in the size of its Armed Forces, it must maintain viable military manpower options. Any reduction in trained personnel means a greater reliance upon the emergency System which would call untrained men into military service. In today's atmosphere, the capability to meet the manpower requirements for a conventional wartime scenario grows in importance. Recently, on the occasion of the appointment of the first woman to become a state director for the Selective Service System, President George Bush said, "Efficient, effective operation of our Selective Service System is vital to maintaining our national security." Given adequate resources as the 1990's begin, the Selective Service System can maintain a high state of readiness and measure up to any future challenge.

Mobilization readiness and registration compliance continue to be the most important activities of the Selective Service System. During FY 1989, the Agency conducted mobilization readiness exercises to test the plans and procedures for conducting operations at mobilization locations. Over 440 Area Offices and 55 State Headquarters were activated across the Nation, providing exercises and training for approximately 700 Reserve Forces Officers (RFOs), 1500 Army National Guard Recruiter Augmentees, and 2200 volunteer board members. During joint exercises involving the Office of the Joint Chiefs of Staff, the Department of Defense, and Selective Service, nation-wide testing of the Area Office Terminal System was conducted, as well as the induction, claims, and appeals ADP support systems at the Joint Computer Center. Similar readiness initiatives and exercises are planned for the future. In FY 1991, the Agency will continue to register men as they reach age 18, conduct a non-registrant identification program to ensure compliance with the law, and maintain a data base of registrant and non-registrant records.

The Military Selective Service Act, section 10(h), as amended by section 715, P.L. 100-180, approved December 4, 1987, requires the Selective Service System to develop a system for the delivery of health care personnel to the armed forces in a national emergency. The development of this system began in January 1988, and will be completed in four phases. Phase I, consisting of a needs analysis and plan of action, and Phase II, consisting of a concept of operations, a detailed study of the policies and procedures related to the induction of health care personnel, and the identification of the functional ADP requirements, have been completed. Phase III, consisting of the development of an ADP system, is expected to be completed in FY 1990. Phase IV, consisting of testing, evaluation, and program refinement, should be completed during FY 1991. Completion of the statutorily mandated Health Care Personnel Delivery System will improve the Agency's mobilization readiness posture.

The Agency is phasing in a corrective realignment of its most critical element in mobilization readiness, the Reserve Forces Program. Army National Guard positions were evaluated during FY 1989 and aligned effective October 1, 1989, to meet mobilization staffing requirements. The structure of the other Agency RFO positions is being evaluated, and these will be realigned during FY 1990. When completed, the new alignment will reduce authorized grade levels, thereby reducing overall costs.

To ensure a continued high level of compliance, Selective Service maintains a dynamic registration improvement program which encompasses a variety of awareness and registration activities at the Federal, State, and local levels. The cornerstone of the registration improvement program is the Registration Reminder Mail-back Program, a direct-mail effort designed to contact young men approaching age 18 to inform them of the registration requirement and offer them the opportunity to fulfill that requirement. This cost-effective, ongoing program has proven to be an outstanding success. As of the end of January 1990, this program had generated over 830,000 registrations equating to an overall response rate of more than 36 percent to all mailings.

With nearly five thousand young men turning 18 every day, an aggressive public awareness program helps maintain a high compliance rate. Despite limited funds, the Office of Public Affairs maintains a public awareness program backed up with quality materials. Additionally, Selective Service is fortunate to have the support of radio and television public service directors, newspaper editors, and high school principals, teachers, and guidance counselors.

Instrumental in achieving and maintaining high registration compliance among young men is the supportive legislation passed by the Congress, such as the Solomon and Thurmond Amendments. The Agency is also experiencing helpful cooperation from other appropriate Federal agencies. A joint program with the Department of Labor allows Job Training Partnership Act (JTPA) administrators to register JTPA applicants prior to enrollment. A similar program has been implemented with the Department of Labor Job Corps Program. Selective Service makes use of Department of Defense records to register men automatically as they enter or leave military service. In addition, most states have laws, policies, or programs which support the Selective Service System.

The Selective Service System's Data Management Center (DMC), which processes and maintains critical data, is essential for mobilization readiness. The DMC is responsible for issuing induction orders and processing records of claims and appeals in the event of a draft. The data entry equipment used to record the registration of the nation's young men is obsolete. The current system, built on the technology of the late 1970's, has not been marketed since 1987. The availability of spare parts and knowledgeable technicians is rapidly diminishing. Repair and maintenance costs are substantial, and equipment failure is becoming more frequent. In spite of efforts to reduce spending, an urgent need exists in FY 1991 to replace the outdated data entry equipment at the DMC. It is estimated that $220,000 will be required for the purchase of this data entry hardware and software.

The DMC processed over 16 million documents in 1989, and the DMC Registration Information Office handled over 523,000 calls from the public to verify registrations in 1989. This constitutes an 18% increase over the volume of calls received in FY 1988. Most calls were from registrants wishing to verify their registration in order to qualify for benefits under the Job Training Partnership Act, Pell Grants, and student financial assistance programs, as well as to qualify for Federal and some State jobs, where the State has made Selective Service registration a requirement. Constituent service has become a major element of our business!

The Military Selective Service Act recognizing and respecting the status of those registrants with conscientious objection to participation in military training and service, provides for non-military service in the national interest which will allow a young man to fulfill his obligation to his country in a manner consistent with his beliefs. During periods of active induction, the alternative service program will identify eligible employers, place conscientious objectors in appropriate jobs, and monitor their performance. In addition, the Alternative Service Program will certify their satisfactory completion, and provide a structure of Civilian Review Boards to review job assignments when a conscientious objector alleges that his assignment violates his beliefs.

The automated system which monitors the processing status of conscientious objectors is known as the Alternative Service Program System (ASPS). The automated system is complete, and refinements are being made to improve and streamline the procedures. An ASPS User's Guide is being developed to instruct personnel on how to operate the system and enter transactions related to a conscientious objector's performance.

The leases on the properties which house the Agency's headquarters and its computer center in Alexandria, Virginia both expire in January 1991. This may be an opportune time to seek the possible benefits of consolidating the Alexandria ADP staff with the headquarters staff; however, there will be certain increased costs inherent to a relocation. For example, according to the terms of the current lease, we will have to restore Alexandria's computer room to its original condition; and, at any new location, we would have to install a telephone system and possibly make renovations to meet the Agency's organizational and functional requirements.

During the past few years Selective Service has been able to take on greater responsibilities and still maintain mobilization readiness, despite rising costs and diminishing resources. We have accomplished this by curtailing or eliminating several important activities, by reducing operating expenses to a "bare bones" level, and by implementing cost saving initiatives such as the Registration Reminder Mail-back Program and the corrective alignment of Reserve forces. However, I would be remiss if I did not express concern that further resource reductions could make it extremely difficult to prevent some deterioration in mission readiness.

Continuous budget reductions and the requirement to absorb pay raises presents the Selective Service System with the same dilemma faced by many other small agencies, in that the Agency does not have discretionary funds which can be reprogrammed to meet the rising costs. The budget consists of over 65 percent civilian and military personnel costs and most of the remainder rests in large fixed costs such as the U.S. Postal Service charge for processing registrations, printing and mailing, space rental, and the basic operation of the Data Management Center.

In closing, I can assure you that, given adequate support, the employees and volunteers of the Selective Service System are prepared for the future, while being ever mindful of the past. A quote comes to mind: "May the time never come when we are compelled to put what we have learned into effect, but if it does, let us pray we shall be ready." These words were spoken 50 years ago by a young Army major who would soon achieve his place of honor in history. Then Major Lewis B. Hershey concluded a regional conference of 100 Reserve Officers with those words. It was a treacherous time. As Nazi Germany pushed through the Low Countries, Hershey and these officers had gathered in San Francisco to train as the nucleus of a new draft organization under the auspices of the Joint Army and Navy Selective Service Committee. A few months later, on September 16, 1940, the modern-day Selective Service System was formed with the passage of the Selective Service and Training Act. And the rest, as they say, is history.

In September, the Agency will celebrate its 50th Anniversary. It was born out of the fears preceding U.S. involvement in World War II. It was active throughout that terrible war, and served the nation faithfully during Korea, and Vietnam. It was maintained at the ready or in standby between the wars, often providing manpower to a peacetime military. Now, as we approach the half century mark, the Agency serves effectively, efficiently, and at minimum cost in a rapidly changing world where the outlook for sustained peace is bright. But history tells us the price of national security is eternal vigilance. To that end, the Selective Service System will continue to perform its contemporary and vital role of guaranteeing military manpower readiness. It is ready to keep America strong for a long time to come.

Madam Chair, this concludes my statement.

IMPACT OF WORLD CHANGES

Senator **Mikulski**. With the changing nature of the world, would you estimate that there will be changes with respect to the Selective Service System and since readiness capability is one of your major objectives, are you in touch with Cheney and Scowcroft? Do we anticipate changes in their needs; will they grow or diminish?

Mr. **Lessey**. I do not anticipate changes in that sense. Our mission has not changed. As I mentioned earlier, a drawdown of the Active Forces requires the Nation to increase its mobilization capability. If the changing nature of the world today results in a greater warning time, that merely makes mobilization a more practical and economical alternative than the maintenance of large Active Forces.

I think you might find of interest a quote from General Hershey in 1950 when there really was a cold war. He pointed out that the Selective Service System performs its mission without drafting men, much as a fireman or a policeman sometimes performs his duty without direct action.

Now maybe I should proceed a little further. I noticed last year that you were one of the few people outside the System who seemed to recognize, for instance, the value of our database for other purposes. I think you were thinking along the same lines in terms of technological hazards or other emergencies. Yes, these issues were discussed by me with the National Security Advisor. Some of our thinking is along the same lines as those to which you were directing some of your comments during the hearing last year.

MOBILIZATION READINESS

Senator **Mikulski**. Well, my thoughts continue to be the same. Let me just stick with your mission here on mobilization readiness and then to some of the other personnel.

I note in the fiscal 1991 budget, it's proposed a cut of 8 percent in the mobilization area. What would be the impact of that?

Mr. **Lessey**. Hunt, do you want to tackle that? This is really more a question of how the dollar is bounced around than any mission change.

Mr. **Banister**. Yes, Madam Chair. The primary reduction in the mobilization readiness account is in the payment of our Reserve Forces for pay and allowances. As the Director mentioned earlier, the agency has undergone corrective alignments of the Reserve Forces and the National Guard. We are hopeful that these alignments will save us some money. But at this juncture, we are still somewhat short in the amount of moneys needed to fully fund the authorized staffing level of our Reserve Forces.

Senator **Mikulski**. How much short are you?

Mr. **Banister**. We're about $550,000 short.

Senator **Mikulski**. That's what we thought, too.

Mr. **Banister**. I might add, Madam Chair, that we are not at our current authorized strength at this time, nor were we fully staffed last year. So, with turnover and what not, it's doubtful that we will be fully staffed next year.

PUBLIC AWARENESS ACTIVITIES

Senator **Mikulski**. Well, I note that your public awareness activities have been cut by 64 percent, verification letters to registrants have been cut from two to one, but your administrative cost will go up. Should we be asking for additional FTE's or talking about rent increases at your headquarters or so on. In other words, it seems like you're cutting back in public awareness, the registrant who we have to keep an awareness level and then your own cost here. Is there——

Mr. **Banister**. Madam Chair, the 1991 request provides full funding for our authorized full-time equivalent personnel. Last year, we were only able to fund 261 full-time equivalents. The ceiling that OMB has provided for the agency has remained at 277 for many years. It is possible that we may not fund all of those FTE's next year, and as a result, some of those moneys could go to support the military forces and our mobilization readiness activities. I might add that all of the costs for civilian and active duty military personnel appear in the budget as an administrative expense even though these personnel work in support of all of the agency's six programs.

Madam Chair, you had mentioned some concern in the area of public awareness. I'd like to add that last year, the Congress provided the agency with an additional $200,000; and of that amount, $161,000 was spent on public awareness activities.

Mr. **Lessey**. I think the percentage that you were quoting, Madam Chair, was the reduction from the peak funding level in 1985 to the present funding level. Actually, the public affairs dollars have been fairly stable at approximately $300,000 for the last couple of years. That funding level enables us to do one television commercial, one radio spot, and one high school kit.

By the way, I should point out that the movie screen initiative, which we mentioned last year, is moving along very well. We're very optimistic about the results from that initiative.

Now, because I believe in sharing the spotlight with all my good folks, I'm going to ask Lew Brodsky, who is the Assistant Director for Public Affairs, to speak up and see if he would like to add anything to my comments; or, as far as I'm concerned, he can give you the same complaints that he gives me.

If there are any particular aspects of the program you'd like to have the details on, Lew will provide them.

Mr. **Brodsky**. Yes, Madam Chair, we have seen some reductions, certainly, in the public affairs budget, over the past few years. We don't feel that the amount of reductions thus far, and the time that has elapsed since those reductions have taken place, will be measurable in terms of decreases in public awareness for a couple of years yet to come because we have established, through previous years funding, a certain degree of momentum. Then, with the amount of funds that have been available to us for the past 2 or 3 years, we've been able to keep that momentum ongoing with the kind of a level of a campaign that will maintain the level of awareness that we have now.

That's not to say that we couldn't do a lot better and increase awareness levels with more money, because certainly we could.

IMPACT OF REDUCED FUNDING

Senator **Mikulski**. Well, see, if I could just interject here, and not to interrupt you but my concern is that in your budget justification, you talk about how the agency's been unable to fund fully the 48 drills per year for the past 2 years. Board members and staff were reduced 30 percent. Public awareness activities have been reduced 64 percent. Verification letters mailed to those who register have been reduced from two to one, and then there are others. It is all on page 3. Your mobilization readiness and your public awareness are the key tools you have because the Selective Service System, though mandated by law, is like the tax system. It depends, really, upon voluntary participation created by a public awareness of the public duty. It's remarkable how much compliance we do have, I think. It's a tribute to you but also to this. So that's why I'm so keen on public awareness. We know that you've had to absorb cuts, pay raises, and so on, and your budget is bare bones, so I'm trying to get a picture of your budget.

Mr. **Lessey**. Of course, what I was saying earlier was that we are getting close to that line; but at the moment, I think we're capable of meeting our requirements. I can assure you that if I see us getting into a situation which I believe threatens mobilization readiness or my capability to get out the registration message, or interferes with our very high registration figures, I can assure you I will not hesitate to get in touch with you and the subcommittee.

Did you want Mr. Brodsky to comment briefly on the movie program?

HEALTH CARE PERSONNEL DELIVERY SYSTEM

Senator **Mikulski**. No; we've read about it and we want to compliment you on what you're doing. We've got so much ground to cover this afternoon.

If I could, I'd like to go to the health care personnel delivery system.

Mr. **Lessey**. Yes.

Senator **Mikulski**. Would you tell us the status of that health care personnel delivery system which you're developing and how much you're planning to spend on it in this fiscal year and in 1991?

Mr. **Lessey**. Yes.

Well, Madam Chair, as you know, the Congress had given us $360,000 for the documentation of the computer program. However, they gave it to us with one hand and they took it away with the other when we lost $408,000 during the final markup. So, basically we have no additional funds for the system in either this year or fiscal year 1991. What we are doing is out of hide, if you will, without additional resources.

Regarding the status of the system, we are now in the third phase, which is systems development. This is the phase of development for which we originally asked the additional money. Mr. Dick Flahavan, on my right, who is the Associate Director of Operations, is the project director. Mr. Ken Johnsen, on my left, who runs the Data Management Center, is responsible for the systems development phase.

What I brought to show you is a flow chart on registration. It's one of four flow charts that they put together. They're still working on the fourth chart. These charts will enable the programmers to develop the system's computer program. We expect to complete this third phase by the end of this calendar year. In fiscal year 1991, we expect to complete the fourth and final phase of development which consists of testing and evaluation.

Senator **Mikulski**. Will any of the 8-percent increase you asked for ADP activities be devoted to this system?

Mr. **Lessey**. Yes, indeed. The cost of systems development will be coming out of Ken Johnsen's hide because he's got the job to do without a significent increase in resources. However, he can shift his own resources internally. I think he's doing a great job.

POSSIBLE USES OF SSS DATABASE

Senator **Mikulski**. How are you doing with your database and also your ability to manage the expanding database? In other words, if we asked you to register people who could respond to oilspills, would you be able to do that? You know, one of the problems, for example, with *Valdez* was they didn't know where the equipment was; it was the same with Hurricane Hugo. I'm not trying to draw it into FEMA concerns, but even people personnel, and I'm not saying this will become your mission, but it might be.

For example, we had Federal employees who wanted to volunteer in 3 seconds as long as their pension wasn't volunteered, that had tremendous experience and capability; guys from the Corps of Engineers, women who had set up programs and had managed the deployment of personnel and logistics. It was like they were calling the same number, you know. It was hit and miss.

One of the things we'll be asking FEMA is, What are the biggest risks facing our country, how do you know where the people and the materiel are positioned to meet the risk, et cetera, and do you have any records on it? Now, FEMA might end up doing the registration; we're not sure.

But now I want to be sure you have the registration, you have the data capacity, the computer capacity for being able to, No. 1, do the job we've given you; No. 2, to be able to do the health professional system because this is part of it, and how we would ever mobilize for either a military or civilian calamity, our health personnel, and then the others——

Mr. **Lessey**. I think you must have a chair over at the National Security Council.

Senator **Mikulski**. Well, again, we're talking about voluntary participation.

Mr. **Lessey**. Let me make just one statement with respect to this general area. You may remember that we met with all of the medical associations in the preparation of the health care personnel delivery system. One of the inputs which we received from the American Medical Association, albeit not a new one, is the question of other skills. Looking ahead and after talking with the Department of Defense, there may be some interest in other than medical skills in the future. Therefore, we are developing the computer program so that other skills could be fed into the system if the need arises.

I might throw out as an aside on the FEMA question that yesterday my Deputy, Jerry Jennings, was nominated to be the Deputy Director of the Federal Emergency Management Agency. We hope that his appointment to that position will enhance that which is already a very close working relationship.

OUTSIDE PARTICIPATION IN DEVELOPMENT OF HCPDS

Senator **Mikulski**. Well, we look forward to working with him. We hope that FEMA would get a permanent director.

At last year's hearing, one of the things that I shared with you is that the American Nurses Association was concerned that our health personnel registration, which I'm supportive of, was really a back door health care professionals draft. I encouraged you to meet with them to let them know what the purpose was and so on.

How has that all worked out? Do you think the health care professionals understand what our purpose is?

Mr. **Lessey**. As far as our plan is concerned, we met with numerous associations which have all been identified in our concept paper which was published in the Federal Register. They were most delighted to be invited to participate and be able to give their input.

I have to say that we did not receive what you'd call complaints or objections. In fact, the input which I mentioned came from the AMA about other types of skills was really the only significant comment of that nature.

Senator **Mikulski**. It's amazing, isn't it, when people are invited to participate and give their views sometimes.

Mr. **Lessey**. Well, I remember you stressed that point with me last year. The representative from the American Nurses Association was a superb individual. She was Kathleen A. Michaels, who not only was a registered nurse but also she was a lawyer. She came with Karen Bordenhorn from the American Association of Anesthesiologists. We were very impressed with both of them. I might add that their visit gave us the opportunity to brief them on selective service, as a whole, before we sat down and exchanged views on the health care personnel delivery system. I believe the meeting was very beneficial for all.

Incidentally, you mentioned a group at last year's hearing called the Clinical Labs Association. I think that that may have been a misnomer because we were unable to find them or pin down that organization.

Senator **Mikulski**. Yes; actually, it probably was. I was talking more about the area than the practice. We can get that for you. We'll ask Dr. Lindstrom on my staff to get it.

Mr. **Lessey**. Perhaps there are others which should have been included; but all groups which expressed an interest were invited to participate in the discussions.

Senator **Mikulski**. Well, there are different kinds of laboratory technicians. One's cytologists that have a special kind of oncology, female oncology responsibility, but there are professional associations for registered laboratory technicians and so on, so we'll get that for you.

Mr. **Lessey**. I have to say in all modesty that the health care personnel team, some of whom are with me here today, have done an outstanding job. Why don't those of you who are on the team stand up?

[The following stood: Mr. Richard S. Flahavan, Associate Director for Operations and Project Director; Lt. Col. Charles M. Lott, USA, health care specialist; and Mr. Robert M.T. Wilson, program analyst and former team leader.]

Mr. **Lessey**. Fine. Thank you very much.

I might mention that Senator Glenn's office called yesterday and were complimentary on that same issue. They felt it had gone well.

IMPACT OF CLAY *v.* UNITED STATES ON CONSCIENTIOUS OBJECTOR STATUS

Senator **Mikulski**. Well, again, you're doing many interesting things.

I'm going to have one final question, really on an issue raised by Senator Hatfield related to conscientious objectors. Last year, as we were moving through the markup, Senator Hatfield was concerned about the way he thought the agency might be interpreting the statute. I asked you for a report on how Selective Service reconciled the mental anguish standard with *Clay* v. *United States*.

Senator Hatfield felt very strongly that the mental anguish criteria that was developed was harsh and punitive and would be difficult to comply with, and that the criteria established in *Clay* v. *United States* was quite sufficient.

Could you tell us where you are on that?

Mr. **Lessey**. We have submitted the letter in response to the committee report to Senator Byrd, chairman of the Appropriations Committee, a copy of which you should have. That letter pretty much sums it up as far as we're concerned. It was a very difficult question to answer because actually there is no connection between the mental anguish issue and the *Clay* case. It was also difficult to respond to because we're basically being accused of something which we aren't doing.

For instance, you just used the word "standard." Mental anguish is not in the law, it's not in the regulation, it's not a standard, it's not a test. In fact, it took us a long time to find out where the words were used because they were given to us in quotes. It turns out that they appear in a projector slide which is used in a training program for board members. They were inserted in there about a decade ago.

There seems to be a certain amount of misinformation and distortion that's creeping into this process. I'd like to suggest that I get with you and Kevin Kelly to work this thing out. I've already been to visit Senator Hatfield.

GENERAL TESTS FOR CONSCIENTIOUS STATUS

Senator **MIKULSKI**. He stated that you sounded like the head of the FBI. He liked that.

In your letter, you said that Selective Service System has not created any definition for conscientious objection, nor has it established a mental anguish in addition to test of belief and sincerity. When a young man registers and if he, say, is a Quaker, and wishes to declare a conscientious objection status and in the event that there was a draft, live out whatever is the requirement by law for alternative service or employment, how would that be administered? Is the declaration sufficient?

Mr. **LESSEY**. No; in accordance with the Military Selective Service Act a determination of conscientious objector status is something which is made by the local board before which an individual may claim conscientious objector status. It is a judgmental decision by a local board. The guidance which, of course, does exist is in terms of sincerity and belief which is stated in the act.

Senator **MIKULSKI**. Those are the criteria and guidance given to the local board?

Mr. **LESSEY**. Primarily.

Senator **MIKULSKI**. Sincerity and belief?

Mr. **LESSEY**. Well, actually there are three general tests for conscientious objector status. A claimant must be conscientiously opposed to either combatant service or participation in war in any form. The objection must be based upon religious training and belief, as intepreted by the Supreme Court. The objection must be sincere.

Senator **MIKULSKI**. Well, I think your letter, Mr. Lessey, really answers Senator Hatfield's concern. Should he have more, we'll ask him to be involved with you. We note that that is a subject that is very dear to Senator Hatfield.

Mr. **LESSEY**. Well, I have known Senator Hatfield since 1964. He's a beautiful person whom I've always respected and admired. I have already been to his office and started a dialog. It will be a pleasure to work with him on this issue or any other issue which may be of concern.

Senator **MIKULSKI**. Well, we appreciate the difficult role you have which is, No. 1, to recognize in our society the authentic conscientious objector or to have the opportunity to have conscientious objectors.

Mr. **LESSEY**. Absolutely.

Senator **Mikulski**. At the same time, to not have a loophole where somebody says, "Gee, I don't like war." I don't know anybody who does.

Mr. **Lessey**. I have a statutory responsibility for that program and, as you know, we're doing things to improve some of the workings of the Alternative Service Program.

Senator **Mikulski**. Well, Mr. Lessey, we want to compliment you and your team that you so proudly introduced today. Our concern for your budget is that perhaps in certain key areas, it's actually skimpy.

Mr. **Lessey**. I wouldn't disagree with that at all, Madam Chair.

Senator **Mikulski**. This is a subcommittee that now believes that you've got to wind the clock to keep it wound. Therefore, we need to provide the basic resources so that you stand in readiness like the guard. In some ways, it's a difficult task because we hope we never use your system.

Mr. **Lessey**. We're not a light switch that should be turned on and off.

VOLUNTARY SERVICE OF BOARD MEMBERS

Senator **Mikulski**. That's exactly right. We're going to see what we can do to help you out. We thank all of your people and all of those boards out there that put in their time and energy. There are people who come up to me around Maryland and proudly declare membership on those boards.

Mr. **Lessey**. As a matter of fact, partially because of your inspiring comments last year, we submitted as a group the voluntary board members to ACTION for one of their volunteer service awards. We're still waiting to hear from them, but it's sort of an unusual recommendation because ACTION deals primarily with individuals. However, we recognize the board members' valuable service and decided to submit the recommendation anyway.

Senator **Mikulski**. Submit it again.

We thank you for your testimony and your dedication.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to your agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

REGISTRATION COMPLIANCE RATES

Question. I would like a clarification from statistics in your budget justification. It says on page two your registration rate is 99.2 percent for men born between 1964 and 1969 for a total of 12 million. But on page 10 it states that rate is only 96.3 percent for men born between 1964 and 1971 for a total of 15 million.

If my calculations are correct, that means the registration rate for men born in 1970 and 1971 is only about 84.7 percent.

What does this mean? Is it normal? It states on page 12 that the on-time registration rate stands at 63 percent, which with the 84.7 percent rate for the most current eligibles suggests that it takes at least a couple of years to bring compliance up over 99 percent.

Or does this reflect serious troubles by the Selective Service System in registering new eligibles?

Answer. It is stated on pages 2 and 10, respectively, in the FY 1991 Budget Justification dated January 25, 1990, that nearly 12 million men were draft eligible for a compliance rate of 99.2 percent, and nearly 15 million men, when adding those 18 and 19 years old and not considered draft eligible, for a compliance rate of 96.3 percent.

The estimated registration data at the end of the year are as follows:

	Potential Registrant Population	Registrants	Estimated Nonregistrants	Estimated Percent of Compliance
Draft Eligible Population YOB (1964-1969)	11,692,000	11,597,000	95,000	99.2%
1970	1,990,000	1,837,000	153,000	92.3%
1971	1,723,000	1,395,000	328,000	81.0%
TOTAL	15,405,000	14,829,000	576,000	96.3%

The rate of registration for men born in 1970 and 1971, combined is 87 percent, which is consistent with past rates for that age group and does not appear to indicate a problem at this time. However, we are constantly attempting to improve the on-time registration with the limited resources available.

IMPACT OF EXTERNAL EVENTS ON REGISTRATION RATES

Question. You mention easing world tensions reflected in events in Eastern Europe. Have you seen any noticeable drop in registrations that might be connected to this new environment?

On the other hand, did you notice any increase or decrease in registration following the recent U.S. military activities in Panama?

Answer. There has been no noticeable drop in registrations that might be connected to the new environment in Eastern Europe. The following table, which compares registration compliance rates over a 6 month period, reflects negligible impact. There was, however, an increase in the registration compliance rate for the month of March 1990. Significant events, such as the recent U.S. invasion of Panama, tend to have a positive impact on registration compliance.

	Compliance Rates	
MONTH	1988-1989	1989-1990
OCT	96.3%	96.5%
NOV	96.4	96.2
DEC	96.2	96.2
JAN	95.7	95.6
FEB	96.7	96.7
MAR	96.0	98.3

FEDERAL PROGRAMS WHICH ENHANCE REGISTRATION COMPLIANCE

Question. You state that legislation passed by Congress and some states, such as the Solomon Amendment dealing with eligibility for student aid, and the Thurmond Amendment dealing with eligibility for Federal employment have been instrumental in achieving and maintaining high registration compliance.

Can you list other programs that would increase compliance if eligibility were contingent upon Selective Service registration?

Answer. Solomon and Thurmond types of legislation have aided registration compliance. However, there are additional programs, conditioned upon registration, which could increase compliance, such as various welfare assistance, probation and parole, and all Federal employment. The conditioning of the issuances/renewal of drivers' licenses of men age 18 through 25 years upon Selective Service registration would be especially helpful. A sure approach to increase the registration compliance rate would be access by Selective Service to the Internal Revenue Service database for those compliance letters which the U.S.P.S. cannot deliver because of an erroneous mailing address.

STATE LEGISLATION WHICH ENHANCES REGISTRATION COMPLIANCE

Question. The budget justification states only 17 states have passed legislation such as the Solomon and Thurmond Amendments.

What is the problem? Why only 17? What can be done to bring more states in line with this program?

Answer. Given our constitutional Federal system, the Selective Service System does not lobby state legislatures for desirable legislation. Therefore, we do not budget nor expend funds for any lobbying effort. The 17 states which already have Solomon and Thurmond type legislation have done so on their own initiative. We applaud their action. Our only involvement in the process is to provide information and technical assistance when requested to do so.

There are a few other states which are considering such legislation at this time.

IMPACT OF FEDERAL AND STATE LEGISLATION UPON SSS WORKLOAD

Question. Have you been able to detect a reduced workload or savings as a result of these types of cross-compliance efforts?

Answer. No; in fact, our workload has increased as a result of greater computer tape matching efforts and expanded service to both the states and other governmental agencies. All of these enhancements to our compliance programs have been accomplished with reduced resources and a shrinking Agency budget.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee's now going to stand in recess until tomorrow, Thursday, March 22, when the subcommittee will receive testimony from the Battle Monument Commission, the Credit Union System, Arlington Cemetery, and the Court of Veterans' Appeals.

Thank you very much.

[Whereupon, at 4:10 p.m., Wednesday, March 21, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MARCH 22, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Bob Kerrey presiding.

Present: Senators Kerrey and D'Amato.

AMERICAN BATTLE MONUMENTS COMMISSION

STATEMENT OF MAJ. GEN. A.J. ADAMS, SECRETARY

ACCOMPANIED BY:

COLONEL MORAN, DIRECTOR OF PERSONNEL AND ADMINISTRATION
COLONEL RYAN, DIRECTOR OF OPERATIONS AND FINANCE
COLONEL BADGER, DIRECTOR OF ENGINEERING AND MAINTENANCE

OPENING REMARKS OF SENATOR KERREY

Senator **KERREY**. The subcommittee will come to order.

Today the Subcommittee on VA, HUD and Independent Agencies of the Senate Appropriations Committee continues its fiscal year 1991 budget hearings.

This morning, however, we will hear from four of the subcommittee's smaller, but no less important, Federal agencies: the American Battle Monuments Commission, the National Credit Union Administration, the Army's Cemeterial Expenses, and the Court of Veterans Appeals.

I am pleased to welcome our first witness, Maj. Gen. A.J. Adams, Secretary of the American Battle Monuments Commission.

I would ask, General, that you keep your oral testimony to no more than 10 minutes, a guideline to which I intend to ask all subcommittee witnesses to abide by.

General **ADAMS**. Thank you, sir.

STATEMENT SUMMARIZED

Mr. Chairman, I appreciate the opportunity to appear before you to present the appropriation request for the American Battle Monuments Commission for fiscal year 1991.

Senator KERREY. General, can I interrupt and ask you just for the record if you could introduce the people who are accompanying you.

General ADAMS. Yes, sir. On my left is Colonel Badger and on my right are Colonel Ryan and Colonel Moran.

Senator KERREY. Thank you.

General ADAMS. Since our last appearance before you, six new Commissioners have been appointed, and they are: William P. Campbell from California, Ronald D. Ray from Kentucky, Mark V. Rosenker from Washington, DC, Jack O. Guy from Georgia, Peter Senopoulos from Massachusetts, and David Sudderth from New Hampshire.

They replaced Bill Hickey from Massachusetts, Rexford Early from Indiana, Joe Canzeri from Washington, DC, Preston Long from New York, Armistead Maupin from North Carolina, and Freda Poundstone from Colorado.

We had an unusually high turnover of personnel in the past year due primarily to retirement. All vacancies have been filled and the incumbents promoted to the grades authorized. New classification standards provided by the Office of Personnel Management for cemetery administrative personnel have been received. Our positions will be evaluated against the new standards and adjustments made accordingly.

During the recent troubles in Panama and the Philippines, our cemetery employees performed most satisfactorily. Although many of them had to walk to work instead of riding the bus, there was little interruption in normal operations.

The agreement between the U.S. Government and the Republic of the Philippines relative to restoration of work on Corregidor is still being negotiated; the Commission will take no action until agreement is reached.

Preparatory action on the Guadalcanal Memorial is about completed; we should be ordering the stone for it in the next few months.

The establishment of the Korean War Veterans Memorial is progressing satisfactorily, except for fundraising. Only about one-half the contributions needed to design, erect, and maintain the memorial have been raised in the past 3½ years. We are trying to raise the balance required by October 28, 1991, when our authority to do so expires.

This year, 1990, is the centennial year of President Eisenhower's birth, and we plan to celebrate the centennial during the 1990 Memorial and Veterans Day exercises. In addition, we will have a wreath-laying ceremony and a reading of an anticipated Presidential proclamation on Sunday, October 14, 1990, the 100th anniversary of his birth.

Our normal daily maintenance operations have been and are being performed satisfactorily. However, many maintenance, repair, and replacement projects have had to be postponed; our backlog of these projects now amounts to about $7 million.

If we assume that there will be no benefit and pay increases in 1991, that there will be no further inflation, and that the rate of exchange will be close to the budget rates, our appropriation request for $15,402,000 will be adequate for normal operations, but will not reduce the backlog.

This concludes my summary, Mr. Chairman. We would be glad to respond to your questions.

[The statement follows:]

STATEMENT OF MAJ. GEN. A.J. ADAMS

Madam Chair and members of the subcommittee, I wish to thank you for the opportunity to testify today in support of the American Battle Monuments Commission's fiscal 1991 Appropriation Request.

The past year, fiscal 1989, was very turbulent for the Commission from a personnel standpoint. The services of almost 10 percent of our experienced U.S. supervisory personnel were lost to us, primarily through retirements. In order to replace them and reach authorized manning levels, it was necessary to hire trainees equivalent in numbers to 12 percent of our supervisory staff. These changes generated a 40-percent turnover in cemetery leadership during the past year. Because of the special qualifications required of our cemetery supervisory personnel, the large turnover necessitated an unusually intensive training effort in order to ensure continued maintenance of our high standards.

The Commission's cemetery supervisory personnel visibly represent this country's past support of freedom on behalf of the host nations and are largely responsible for the high standards of care for which these shrines are well-known. It is important that the special qualifications required of them receive recognition through the classification standards for their positions. Last year, the current Office of Personnel Management (OPM) classification standards for the Cemetery Administrative series, GS 1630 were reviewed. Several positions were upgraded to conform to the additional responsibilities accruing to them over the years. We have learned that new classification standards for these positions are soon to be issued, and are prepared to revise the position descriptions of our superintendent personnel in accordance with the new OPM standards. Based on preliminary estimates, it appears that many of our superintendent positions, which are manned by truly knowledgeable, efficient, and dedicated employees, will be upgraded in order to give proper recognition to their sensitive and important role of representing the United States overseas at these unique and honored shrines.

The overall care of the cemeteries and memorials for which this Commission is responsible has been hampered for several years by insufficient funds for contractual maintenance and repairs, equipment replacement and capital improvements. On an average, about $1,900,000 are required annually for these purposes in order to maintain parity, not including funds appropriated for new memorials such as the Korean War Veterans Memorial (see chart attached). Despite fund shortages, the general condition of the horticulture at ABMC installations is excellent. Last year very high winds in France and England toppled trees and damaged headstones and a typhoon in the Philippines caused similar damage to the Manila American Cemetery and Memorial. All of this damage has been repaired and the trees replaced.

With over 67 miles of roads and paths to maintain, the Commission must give them constant attention in order to preclude major problems. Potholes are repaired when they are found. Both the European Office and the Manila Cemetery have small rollers for compacting asphalt enabling such repairs to be performed in-house. ABMC has a program of sealing the surfaces of the asphalt roads and paths at five year intervals which minimizes the occurrence of major problems.

Most problems with the many structures maintained by ABMC are caused by water penetration and air pollutants. Both cause unsightly stains and can cause considerable damage. Air pollutants also are often damaging to sculpture and headstones. In high pollution areas, it is necessary to clean, pumice and silicone thousands of headstones quarterly in order to protect them from the eroding effects of air pollution. Frequent inspections are conducted so that problems of this nature are detected and taken care of before they become major.

Insofar as practicable, the cemeteries have been made self-sustaining with respect to utilities for economy and other reasons. Many have their own wells, waste disposal facilities, and backup power generators. For example, during the recent coup attempt in the Philippines, all municipal electric power in the vicinity of the Manila American Cemetery was cut off for an extended period of time. Fortunately, through the use of its backup generators, the cemetery was able to maintain normal operations.

New construction and capital improvements have been quite limited due to the austerity of funding brought about by this country's large annual budget deficits. Presently, ABMC has a backlog of $4 million dollars in capital improvement projects. Despite the limited availability of funds for this purpose, last year it was necessary for us to replace the deep well at the Lorraine American Cemetery and Memorial at a cost of $132,000. The new well will provide us with adequate water there at a considerable saving over municipal sources.

Last year, ABMC and the Army Corps of Engineers conducted an open competition to select a design concept for the Korean War Veterans Memorial. The 1,019 registered entrants submitted 545 concepts. In accordance with Public Law 99-572, the Korean War Veterans Memorial Advisory Board selected the winner of the competition, an architectural team from Pennsylvania State University. The concept has been approved by this Commission and the other Commissions whose approval is required by law. The Architecture-Engineer firm of Cooper-Lecky has been selected to implement the design. The contract for converting the design concept into working drawings and specifications is being negotiated with the firm by the Army Corps of Engineers acting as ABMC's agent. Private contributions to construct the memorial now total $4.5 million. It appears that a total of $9 million will be needed to complete the project.

Section 1601 of Public Law 100-687 charges ABMC with restoration, operation and maintenance of the Pacific War Memorial and other historical sites on Corregidor, subject to ratification of an agreement between the United States and the Republic of the Philippines. The agreement is being held up because of lack of accord between the two nations concerning its duration. Although ABMC would prefer free use in perpetuity of the memorial area and other historical sites without charge or taxation, it has reluctantly concurred with a twenty-five year renewable agreement. The Republic of the Philippines, however, has not yet agreed.

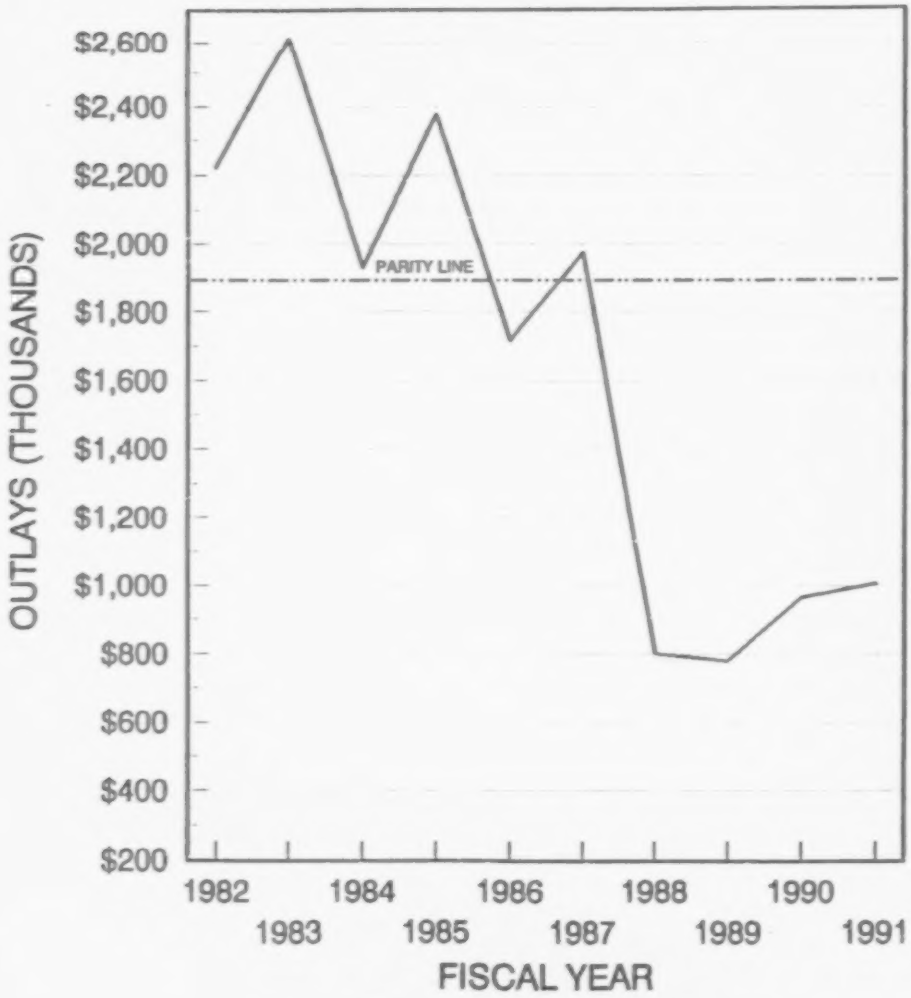
As 1990 is the centennial year of President Eisenhower's birth, this Commission plans to reference the Centennial during the 1990 Memorial and Veterans Day ceremonies at its installations and to conduct a special wreath laying ceremony and reading of an anticipated Presidential Proclamation concerning it on Sunday, October 14, 1990, the 100th anniversary of his birth. This Commission also is working closely with the Office of the American Bicentennial of the U.S. Constitution and will provide such support as it may request in the celebration of this special event. ABMC proudly notes that President Eisenhower, while a Major, USA, served as a member of the Commission's military staff in 1927, 1928 and 1929.

For many years, ABMC received the funds needed to offset annual increases in salaries and personnel benefits by means of a supplemental appropriation for the year concerned. This procedure caused somewhat of a problem as it was necessary each year to defer maintenance and repair projects and equipment replacement equivalent to the amount of the pay and benefit increases, until such time as the supplemental appropriation was enacted. The current cost of pay and benefit increases is $400,000 to $500,000 annually. In recent years, the policy of the Congress and the Administration has been that there would not be any supplemental appropriations. I cannot emphasize too strongly that ABMC cannot absorb annual costs of such magnitude and still maintain adequately the shrines for which it is responsible. Had it not been for the foresight of the Congress in increasing ABMC's fiscal 1990 Appropriation Request, it would not be possible to meet all of our payrolls or to maintain the cemeteries and memorials at an acceptable level.

This Commission's fiscal 1991 Appropriation Request for Salaries and Expenses is $15,402,000, $130,000 less than fiscal 1990. This concludes my prepared statement. We will be pleased to respond to your questions.

ABMC OUTLAYS FY 1982-1989
BUDGETED FY 1990 & 1991

OBJECT CLASSES 25, 31, & 32



FY 1989 and FY 1990 does not include $500 thousand for the Korean War Veterans Memorial.

Senator KERREY. Thank you very much, General Adams.

I guess the first question and the obvious one is why the 1991 request is less than in previous years?

General ADAMS. The appropriation for fiscal year 1990 included $0.5 million for the Korean War Veterans Memorial while the fiscal year 1991 request does not.

EFFECTS OF CURRENCY FLUCTUATION

Senator **Kerrey**. What will the impact of the stronger dollar be on your budget?

General **Adams**. Unfortunately, the dollar is presently weaker than it was last year. A stronger dollar would help us increase the reserve in our currency fluctuation account to offset future exchange losses.

Before that fund was established, if the dollar was strong and we made money, we could pay our people, perform required maintenance, and reduce our backlog of maintenance projects. If the dollar was weak, we had to take funds out of maintenance activities to pay the people.

Senator **Kerrey**. Has the strengthening of the dollar that has been going on most of this year and part of last quarter as well, has that helped?

General **Adams**. Yes; a dollar stronger than the rate at which we budgeted helps us.

KOREAN WAR VETERANS MEMORIAL

Senator **Kerrey**. Talk to me a little bit about the Korean War Memorial. You've got an increase for the cost estimate from $6 million last year to $9 million this year, and you referenced some difficulty in fundraising. Can you just talk to me a little bit about why the cost has gone up, or the estimate has gone up?

General **Adams**. Yes. The primary reason is the cost of executing the design selected by the Korean War Veterans Memorial Advisory Board. When we first envisioned this memorial, we expected to erect one that would have cost at that time about $6 million. Due to the concept selected and inflation, the price has just about doubled.

Senator **Kerrey**. Are you still going to wait until you get all the funds into the Treasury before you start construction?

General **Adams**. By law, we have to have all construction funds on deposit in the U.S. Treasury and, in addition, 10 percent of the construction cost on deposit with the Department of the Interior for future maintenance before we can begin construction.

Senator **Kerrey**. Do you expect to be able to hit your fundraising goal that you're referenced in your testimony? You said you're having some difficulty in funding.

General **Adams**. We have, as I said, about $4.7 million right now, and we need about $4.5 million more. My personal opinion is we will fall short. However, some of the other people involved in raising funds are more optimistic.

Senator **Kerrey**. I have attended a number of Korean war memorials and reunions in Nebraska, and I'm well aware that those veterans feel as if that's almost a forgotten war. Is there more that we should be doing either to assist in a private way, Congress to assist in a private way or in a public way to accelerate this important memorial?

General **Adams**. We believe that probably the best way in which you may help is to encourage those in commercial and in industrial operations in your State to help us, to donate and to contribute to this fund. In general, we have had very little success in obtaining funds from corporate America.

Senator **Kerrey**. I note that we have some veterans of the Korean war in the Congress, and I guess the one that comes to mind is Senator Rudman, and I would urge you to consider, and you need not respond this morning to this, but consider that perhaps there might be a group of us, and as a Vietnam veteran I'm conscious of some of the feelings that Korean war people have toward the absence of a memorial for them, and I would certainly, as one Senator, be willing to assist in things that you thought would be appropriate to generate additional money for the fundraising, and I'm sure Senator Rudman would as well, although I wouldn't want to commit him publicly, but I think you would find a willingness on the part of people in the Congress to assist this private fundraising effort to make sure that your goals are achieved.

General **Adams**. Thank you very much, and believe me we will be in contact with you.

FISCAL YEAR 1991 PAY COSTS

Senator **Kerrey**. How much of your budget is allocated for pay costs and how much are they needed?

General **Adams**. Overall the pay costs, personnel benefits, and so on are a little over 80 percent, if that answers your question, if I understand your question.

Senator **Kerrey**. Yes; do you have in the 1991 budget a cost to cover the pay increase to Federal employees?

Colonel **Ryan**. Not for 1991, sir.

Senator **Kerrey**. What would you need to fully meet that?

Colonel **Ryan**. Our pay costs have been running on an average of $400,000 to $500,000 a year. We probably would need an additional $200,000 to $300,000 to defray all our 1991 pay increases. The Office of Management and Budget has said that there is $200,000 in the appropriation request for pay increases, so that would cover about one-half of our requirement.

Senator **Kerrey**. Is the direction from the OMB then that you must absorb that other?

Colonel **Ryan**. That's the intent, I'm sure.

COMMISSION MEMBERSHIP

Senator **Kerrey**. Are there vacancies on the Commission now?

General **Adams**. No; there are not now. As I mentioned, we have six new Commissioners. The President appointed them to replace six members who were specifically designated.

Senator **Kerrey**. Well, I have no additional questions.

I appreciate the work you've done.

I guess I would just reiterate again on the Korean War Memorial that there are things that we can do again in a private way or things that we could do, perhaps, even publicly, I wouldn't be shy about being aggressive with us to assist because I think it's important to make certain that we are successful in raising the money for that memorial and that construction occurs.

General **Adams**. We thank you very much.

NATIONAL CREDIT UNION ADMINISTRATION

STATEMENT OF HON. ROGER W. JEPSEN, FORMER SENATOR AND BOARD MEMBER

ACCOMPANIED BY:
WILLIAM C. POLING, BUDGET OFFICER
ROBERT J. LaPORTE, PRESIDENT, CENTRAL LIQUIDITY FACILITY
D. MICHAEL RILEY, DIRECTOR, OFFICE OF EXAMINATION AND INSURANCE
ROBERT FENNER, GENERAL COUNSEL

BUDGET REQUEST

Senator **Kerrey**. We will now go to the testimony from the National Credit Union Administration.

The subcommittee welcomes Senator Roger Jepsen.

Senator, the subcommittee does welcome you here, and we appreciate your coming this morning to present your budget.

For the record, the Credit Union Administration is financially self-sufficient, but does each year seek legislative authority for the administrative expenses and amount of borrowing incurred by the Central Liquidity Facility.

For fiscal year 1991 the NCUA is requesting $893,000 for administrative expenses, which is up somewhat from 1990, and $600 million in borrowing authority, which is the same amount that has been requested in recent years.

During last year's hearing, in addition to discussing the request for the Central Liquidity Facility, we also addressed the financial health of our Nation's credit unions, the status of the community development credit union revolving loan fund and the circumstances surrounding the fraud at Franklin Credit Union and the potential for similar occurrences.

I expect, Senator, that this hearing will have a similar focus.

With that, Senator Jepsen, we would be pleased to hear your statement.

Senator **Jepsen**. Thank you, Senator.

Mr. Chairman and members of the subcommittee, we do thank you for the opportunity to appear before you and present our request for the NCUA Central Liquidity Facility.

INTRODUCTION OF ASSOCIATES

Appearing with me here today are Robert LaPorte, President of the Central Liquidity Facility; Mike Riley, Director of NCUA's Office of Examination and Insurance; Bob Fenner, the General Counsel; and William Poling, our Budget Officer for the agency.

I would respectfully ask, Mr. Chairman, that the balance of my remarks be entered into the record as if read here, or my written testimony be entered into the record as if read.

Senator **Kerrey**. Without objection.

SUMMARY OF STATEMENT

Senator **Jepsen**. I'll summarize. For the fiscal year 1991, as you indicated, we are requesting $600 million, which is exactly the same amount as we've had for the 10 years since it has been in existence. There is a slight increase, a modest increase of $42,000 over last year's limitation in our expense area that has been brought about primarily by the nondiscretionary funds increase that is prompted by the increase in the wages and also pay differential that we brought into the agency for our people around the country.

CU LIQUIDITY

I am pleased to report that the credit unions continue to remain liquid, and during the past calendar year the shares increased 5.1 percent, while the members' loans increased 8.9 percent. These are the right signs and the right signals and the right trends.

We have no indication that there is going to be a problem with liquidity. If the danger signals should appear within the credit union community in that area, we will be prepared to act, with the committee's authorization of the $600 million new loan limit.

At the close of the fiscal year 1985, the CLF's outstanding loan portfolio stood at $222 million. This is approximately the same as it has been in the fiscal years 1986 through 1989, and we don't anticipate any major change.

CDCU REVOLVING LOAN FUND

As you also indicated, we did discuss the community development credit union revolving loan fund. That community development revolving loan fund was created by Congress in 1979 and it was moved to NCUA in 1986. We have put some good business parameters around this loan fund and have issued appropriate regulations to implement the program. The credit unions have until March 30 of this year to file applications, and then we anticipate disbursements to be starting by mid-May.

We respectfully ask that you support our authorization request in order that we may respond quickly to the changes in the credit union community. It gives both credibility and confidence. It is sort of a fund of last resort, but it has been used sparingly over the past years and has been very helpful to the entire credit union movement and the conflicts the American people have with financial institutions.

FINANCIAL CONDITION OF CU'S

As you indicated, and I know technically we're here today to establish limits on the CLF's spending and borrowing, but I would just like to take now in closing a brief moment to bring the subcommittee up to date on the credit union movement and our national credit union insurance fund.

Overall, the federally insured credit unions are healthy, and they have done very well. In fact, we've had remarkable success in some very trying times. Needless to say, the last 4 years have been very tough times for financial institutions in this country. Credit unions have become stronger in all of the trends and benchmarks. All measures of financial success, safety, and soundness, and the credit union community have turned around and continued to move in the right direction.

The credit union growth rate, which concerned us in 1985 and 1986 and parts of 1987, has exceeded 20 percent, and one year it was 26 percent. That's quite fast and there were problems in that rate of growth. It has now leveled off and stands about 5 percent, which is very comfortable and a good, solid rate of growth.

Our capital has risen at the same time to 7.4 percent, which is the highest of all the financial institutions, and I would point out this capital is pure capital. It does not include good will and it does not include stock.

Our loan-to-share ratios are at the highest level in a number of years. We are not involved in leverage buyouts [LBO's] and do not lend to lesser developed countries [LDC's], we do not invest in junk bonds, and the number of problem credit unions declined in 1989 from 1,022 to 794. That figure represents hard work in credit unions that have improved their position, and is not just a willy-nilly or reckless elimination or liquidation just to make the figures look good. That has come about from hard work, close supervision, and quality examinations.

NCUA SHARE INSURANCE FUND

Finally, our national credit union share insurance fund, which has been in the news often and because of the FSLIC and the FDIC funds are receiving a lot of attention, headlines every day, and today is no exception.

We just completed the fifth straight profitable year in the national credit union share insurance fund. The last 4 years have been very tough on the insurance funds generally. Credit unions have had some trouble. The national credit union share insurance fund has been strengthened and continues to grow stronger. In the last several years we've had a profit each year, and the fund is audited annually by independent CPA's. We have received five straight unqualified opinions. It's level now stands at 1.26 percent. That's the share equity level, which is the highest of all the deposit insurance funds.

In February, Mr. Chairman, of 1989 the GAO said that the credit union insurance fund should serve as a model for others, and we think that's sound advice.

I thank you, and we would be pleased to answer any questions.

[The statement follows:]

STATEMENT OF ROGER W. JEPSEN

Madam Chair and members of the Subcommittee, thank you for this opportunity to appear before you and present our request for the NCUA Central Liquidity Facility. Appearing here with me today are Robert LaPorte, President of the Central Liquidity Facility; D. Michael Riley, Director of NCUA's Office of Examination and Insurance; Robert M. Fenner, General Counsel; and William Poling, Budget Officer for the Agency.

For fiscal year 1991, we are requesting a 600 million dollar limit on new loans. This requested limit has remained constant for the last ten years and, I might add, has proven adequate throughout these years. Regarding the CLF's operating expense, we are requesting that the Committee consider an $893,000 limitation when approving our portion of the HUD-Independent Agencies Budget. Our request this year represents a modest increase of $42,000 over last year's approved limitation.

I am pleased to report that credit unions continue to remain liquid. During the past calendar year credit union shares increased 5.1 percent while outstanding loans to members increased 8.9 percent. While these increases tighten liquidity slightly, there is no indication of any serious concern since the current loan to share ratio remains substantially lower than it was 10 years ago. We anticipate that both savings and loan growth will remain moderate for fiscal year 1991.

If danger signals should appear within the credit union community, the Central Liquidity Facility needs to be prepared to act, and we believe that the Committee's authorization of a 600 million dollar new loan limit should be adequate for fiscal year 1991. Prudent funds management and the existence of the viable corporate credit union network should continue to keep new loan demand well below our request.

At the close of fiscal year 1985, the CLF's outstanding loan portfolio stood at $222 million. At the end of fiscal years 1986 through 1989, the portfolio balances were $106 million, $111 million, $120 million, and $112 million respectively. As you can see from the attached schedules we do not anticipate a major change in fiscal year 1991.

I am also pleased to report that in light of congressional action transferring the Community Development Credit Union Revolving Loan Fund to the National Credit Union Administration, we have issued appropriate regulations to implement the program. Credit unions have until March 30, 1990, to file applications and we anticipate disbursements starting by mid May.

Madam Chair, we respectfully ask that you support our authorization request in order that we may respond quickly to changes in the credit union community. By supplying a source of emergency funds, the Central Liquidity Facility bolsters public confidence during periods of liquidity stress.

Thank you for the opportunity to appear before the you today and present our requests for the Central Liquidity Facility. We would be pleased to answer any questions.

CREDIT UNION SUPPORT

Senator **KERREY**. I appreciate again, as I said, Senator, your making the presentation today. I met with some of your other people that were here yesterday, to discuss a report that I had requested last year, and I appreciate as well their openness throughout and the difficult troubles that we've had with the Franklin Credit Union in Omaha.

Senator **JEPSEN**. I took a side trip, by the way. I was in San Antonio on my way to Salt Lake City, and I took a little detour around to come back today so we could do this.

Senator **KERREY**. I appreciate it. Thank you very much.

I want to make it clear that I do support the credit unions. I was a member of the Navy Credit Union when I was in the Navy and I was a member of the Federal Employee Credit Union, and not just because I appreciate the services that are available, but I want to support a lending organization that I think is unique and without which I think I see no commercial lending alternative that would fill the gap. I think it's a very, very important financial institution providing, as I said, a borrowing resource for which I see no clear alternative at all.

So I appreciate the testimony indicating the strength of the credit union and that it is liquid and that it is healthy and it's well operated, and it seems to me to be rather clear.

FAILURE OF FRANKLIN CREDIT UNION

I also, as you well know, and as we've talked before, have a rather parochial interest in the Franklin Credit Union issue in Omaha, and I would like to spend some time in an opening statement to you, Senator, as well as to the rest of the members of the NCUA staff.

This failure of Franklin was a monumental event in Nebraska. It stunned the entire community and there are continual repercussions. There is a grand jury investigation that's underway now, and there have been previous to that some investigations on the part of a special committee, and it has caused a considerable amount of trauma for our State, not just on the financial side and the withdrawal, as I referenced in the beginning, the withdrawal of services to an underserved portion of our community, but also in continuing to sort of undermine the confidence that the people have, not just in lending institutions, but in their political and in their community leaders.

FRANKLIN LOSS

The fact remains, it seems to me, that the fraud began, as your own materials indicate, in the mid-1970's and continued well into 1988, a period in excess of 10 years, and it resulted in the loss of $39 million, most of which again, according to NCUA, will not be recovered with a result that those who support credit unions will bear the cost, as you have indicated in previous testimony.

Last year in its report this subcommittee requested that the NCUA submit with its testimony on its fiscal 1991 budget request a report on why it was unable to detect the fraud at Franklin and what steps it had taken to ensure that similar situations do not recur.

FRANKLIN FRAUD DETECTION

In the materials provided NCUA states:

> Primarily the deficiencies in the regulatory process did not involve the examination per se, but the failure to expand the examination procedures when serious exceptions were noted, and then to maintain pressure on the management to comply with the records of action developed during the examination process.

A more general statement comes from our State's Deputy Attorney General Jane Crump, who I asked to evaluate your report said: "Upon my reading of the information provided by Senator Kerry—in other words, the report requested by the subcommittee and provided by NCUA—I would state affirmatively that the NCUA could have and should have detected through irregularities in the Franklin Credit Union to detect the now obvious irregularities on a more timely and prompt basis."

Two principal financial questions still remain. The first is, Why did it take so long for the massive fraud to be discovered and, second, what happened to the funds?

In its report to the subcommittee NCUA notes several unique circumstances in the *Franklin* case.

One was a practice not to close down low-income and other small credit unions because of deficiencies in audits and other regulatory shortcomings. While the motive behind this policy may have been good, I submit that the approach was ill-conceived and, in effect, counterproductive.

If anything, these institutions need help and support in becoming responsibly functioning institutions, not benign neglect, in the hope that they will somehow do better.

The counterproductive aspects, as you know because we have discussed this privately, is again the community that this credit union was attempting to serve is the one that in the end, it seems to me at least, suffers the most.

A second indication is that outside audits failed to detect the fraud. While this is true, there were the admitted red flags which should have brought greater scrutiny.

Three, NCUA states that during the 1982-85 period when the fraud was escalating it had limited staff resources. I accept that staff resources were limited, but with the irregularities that were apparent, the use of even limited resources on Franklin would appear to be merited.

Finally, NCUA notes that King, the head of Franklin, was also the beneficiary of enormous good will and support from business and civic leaders in Nebraska. The mayor of Omaha served on the board of Franklin, the publisher of the local newspaper served as chairman of Franklin's advisory board and led Franklin's building fund campaign, and other very prominent members of the Nebraska business and political community, including a U.S. Congressman, purportedly served on the advisory board.

BROAD IMPACT OF FRANKLIN FAILURE

I suggest, first of all, the obvious, that political influence should not interfere with supervisory and regulatory activities. But I also suggest that it was not just the Omaha, NE, support, but a much broader, national support which Mr. King enjoyed. If Mr. King had support, it was as much because of his national activities as because of his State and local ones. If it managed to mislead, he managed to mislead on the National as well as the State and local level.

When regulators visited Mr. King's office, the most prominent picture they saw was one with him and President Ronald Reagan. Mr. King sang "The Star Spangled Banner" at the 1984 Republican National Convention. He was featured prominently in the 1988 Presidential campaign as a successful businessman and black leader, and Mr. King threw a well publicized and lavish party at the 1988 Republican Convention in New Orleans.

I do not make this point as a particular jab, nor do I suggest, by the way, that I'm asking for additional followup and investigation. I simply say that it illustrates what I think is a continual willingness on the part of NCUA as reflected in your own testimony to ignore the responsibility that people outside the State of Nebraska have for the fiasco.

In addition, Senator, with all due respect, I find it appalling that the report fails to mention the impact upon Federal regulators of Mr. King's importance to the leaders in the executive branch of the Federal Government.

Again, I say this without intent to ask for a followup investigation, but it appears to me a glaring deficiency in the report. What it has done in the Nebraska communities, it has unbalanced the Nebraska's communities' observation of what has happened, and by unbalanced I mean it has led to the conclusion that this whole thing occurred because of what was going on at the local level.

Local business people and political leaders gave Mr. King support and sustenance, and then that support and sustenance enabled him to avoid full regulatory oversight. It seems to me that at the very least that the testimony should have balanced the observation of his local support with an observation that he had a considerable amount of support at the national level as well.

None of that, by the way, is an excuse for those in the State, but it is important to me I believe to understanding the dimension of Mr. King's influence at the time.

WHERE THE MONEY WENT

As for the question of where the money went, I'll simply submit for the record a report that you made available to me. It's an excellent report, and it has been very useful. I have communicated the details of the report to Congressman Peter Hoagland, who also has directed me to express his appreciation for the work that the financial advisor group has done that has enabled us, I hope, at least to reconstruct the source and use of some of the money that has been lost so that that portion of the question can be answered at the local level.

Again, I have no intent in this morning's debate and discussion with you to draw out the painful analysis of what went wrong. But it seems to me again that it should have been relatively obvious, with even a limited amount of resources, to the Federal regulators that Mr. King was living far beyond the approximately $18,000-a-year salary that he was drawing off of this credit union.

I appreciate that the possibility existed that he could have also been making money off of his food service, but it seems to me again that common sense should enable us to reach that conclusion.

I have seen this kind of thing occur before and, again as I said to Mr. Fenner and the others yesterday, I understand from personal experience that sometimes you err in giving too much, the regulators do, in giving too much credence and too much concern for either the owner or the individual operating the institution. It occurs all the time in regulatory environments and not just in the financial institutions, but in practically every single area of regulation.

REGULATORY ENVIRONMENT

I want to make it clear, too, Senator, that I'm not anxious—and I'll get into specific questions here—I'm not anxious to overregulate credit unions or any other financial institution. In fact, I think we have to be careful in this environment that we don't impose a whole bunch of new regulations upon either credit unions or financial institutions because it seems to me that the last thing we want to do is make people who are borrowing suffer as a consequence of errors that were largely administrative and human errors that are easy to understand and easy to mitigate without necessarily drafting all kinds of new rules and regulations that might restrict future activity on the part of institutions and might end up having a counterproductive objective of hurting the very people that we're trying to serve.

FRANKLIN CU PROBLEMS

Now with that, let me get into some specific questions on the Franklin Credit Union.

I understand that your examiners have been to the Franklin Credit Union every year and that Franklin had received a CPA in 7 of the last 12 years. It seems obvious then that the problem was overlooked by both examinations.

I have read your report on Franklin, and it appears that a major cause of the problem was collusion on the part of the president and treasurer in not formally recording deposits. I can understand collusion weakening most normal internal controls, but wouldn't such a simple thing as looking at bank statements have alerted an auditor or an examiner to the fact that Franklin was a very different operation than its financial statement indicated?

Senator JEPSEN. Mr. Riley, if you would respond to that.

Mr. RILEY. During the examination process we do look at the bank reconcilements and we look at the different things. The examiners noted the heavy inflow of cash coming into and out of it. He followed up on that and was told that this money was from the Community Services Organization and grants coming in not to the credit union, but to the Community Service Organization. So there were at least plausible explanations given for the amount of cash showing up coming to the bank reconcilement.

The examiners should have followed up a lot more thoroughly than they did.

Senator KERREY. How do you reach the conclusion that the explanation was plausible? How do you make a decision to apply the word "plausible" to the explanation?

Mr. RILEY. I didn't mean to indicate that we thought it was plausible in looking at it. It was plausible to the examiner on the exam at the time it was given. They looked at the grants coming in from different places and from different organizations. I personally, if I were the examiner, would have had to go back and verify the accuracy of those grants and the money coming in.

Senator KERREY. I don't have the full report here, but I know from my memory of the report you provided me yesterday on where the money went, that Mr. King himself took $10 million and that the affiliated institutions also withdrew approximately $10 million. I mean that's a fairly substantial pump, and beyond what it seems to me what common sense would tell you that those affiliate organizations would be able to generate. Again, it would make it difficult for me, even going back, to say that the information being provided to the examiners was plausible.

Mr. RILEY. It was, again, a large organization employing over 60 people. I'm not saying that I would have found it plausible. Upon review, we think the examiners should have agreed with it. Most of the information on where the money was going was hidden from us and the other auditors until sometime in 1988.

FRAUD DETECTION TRAINING

Senator **Kerrey**. I assume from conversations we've had—and I would like to give you a chance to get it on the record—that the incident has caused you to, in your training of examiners, to get them not to accept such sorts of explanations as plausible when they appear on the face of it not to be.

Mr. **Riley**. I would agree; yes, we have done a lot of that. We have put on a couple of fraud- and audit-type detection classes for examiners, and we put a different section in the guide on dealing with situations like this and making sure, particularly in grants or outside donations, that a verification is done, a clear verification is done of where those moneys are coming from and where they are going.

Senator **Kerrey**. Again, just so you get a chance to put it on the record, I understand from the discussions that we had yesterday that this whole incident and perhaps others like it have decreased in frequency by which you are approached by either elected political officials or community leaders on behalf of troubled financial institutions.

Mr. **Riley**. I believe that is correct.

LEGISLATIVE ACTIONS

Senator **Kerrey**. You cite several actions that you've taken to reduce the likelihood of future occurrences, and you also cite several legislative actions that you've endorsed or proposed to the House authorizing committee. The four that come to mind are the mandatory CPA audits of credit unions with serious recordkeeping deficiencies; second, the authority for NCUA to issue subpoenas; third, the increased authority to close credit unions; and fourth, the increased flexibility for IRS and NCUA to exchange information.

Can you just give me some sort of an idea of what the status of the legislation is at the moment?

Senator **Jepsen**. Mr. Fenner, would you respond to that, please.

Mr. **Fenner**. Yes; thank you, Senator.

The first item of legislation, that is the amendment wherein Congress directed the NCUA to require outside CPA audits in any year where a credit union's own supervisory committee doesn't conduct an adequate audit, has been implemented by regulation, a regulation that has been in place for about 4 months now that defines the circumstances under which we consider a supervisory committee audit to be inadequate and then requires or directs that our examiner follow up and impose the outside audit requirement on the credit union. That is in place and there are instructions in the hands of our examiners for enforcing it.

FIRREA LEGISLATION

Subpoena authority was not a new authority, but it was strengthened by the Financial Institution Reform, Recovery, and Enforcement Act [FIRREA], and that is an authority that, in fact, has been very essential and critical to us in our reconstruction efforts at the Franklin Credit Union. We have, as I mentioned to you yesterday, we have at our reconstruction office nearly 1 million pieces of paper now, and much of that was obtained by us pursuant to our subpoena authority, subpoenas of bank account and credit card records and billing records and so forth of the various businesses that King and the others were involved with.

Senator **Kerrey**. So you essentially got that authority in the FIRREA legislation that was passed last year?

Mr. **Fenner**. We had it, and previously it was strengthened in FIRREA in ways that made it much more clear that it could be used in this kind of case.

The authority to close credit unions—again it was not a new authority. We have always had the authority and the responsibility to close and liquidate insolvent credit unions, but our powers and the ability and the ease with which we can conduct those liquidations, sell assets, and pursue claims was greatly strengthened by FIRREA, and again that's something we appreciated very much.

IRS INFORMATION SHARING

The final issue, the issue of the IRS's lack of ability to share information with us in circumstances such as Franklin where they know, in fact, that an individual who manages an insured financial institution is spending many thousands of dollars more a year than his reported income to the IRS does continue to be a problem area. We're looking for solutions and we have discussed it with folks at the Justice Department and the IRS.

We don't think there is any easy answer to that one, but we're continuing to pursue it. Obviously you have to balance the privacy rights of individuals against the need of a financial regulatory agency to have information that might give rise to suspicions of embezzlement.

FINANCIAL DISCLOSURE OF BANK DIRECTORS

Senator **Kerrey**. One of the suggestions that is sort of connected to that that Attorney Crump made to us was the possibility of a financial disclosure form that would be filed with State banking directors that could be provided to NCUA to give you again some additional information, and it might even be better than having to have to track IRS filings to give you some additional information. Can you comment on whether you think that has any potential for assisting NCUA?

Mr. **Fenner**. Well, I think it does, and again as we discussed yesterday, I think it's something that we ought to look into further.

I do want to mention that we are already doing a couple of things in that area. One is that with respect to all newly chartered credit unions we do run both credit checks and FBI criminal record checks of all the organizing officials, and also a second point is as a result again of a FIRREA amendment we do in the cases of management, senior management changes in all troubled credit unions, there is a requirement of NCUA's preapproval of those management changes and we do conduct a background check on those individuals.

PUBLIC INFORMATION

Senator **Kerrey**. I would appreciate it, particularly given the well-run nature of NCUA, and it's obvious that this is a very small exception to a large rule of good regulation, if you would evaluate that option for me, because it seems to me, again, Senator, that one of the things that this might give us, and by us I mean political people like myself, is an additional tool we can offer the public so that they can make their own evaluation of the health of the institution.

One of the new dilemmas that we are now in—and I think, in fact, it's a good dilemma to be in—is that politicians, elected people are in a position increasingly where we are really not either able or willing to answer questions that come to us from the public about the health of a financial institution. I say it's good because typically we are not trained to do that evaluation anyway even if we had access to the records.

So the more public information there is about the operation, again consistent with the desire not to violate privacy, but also consistent with the desire to regulate with all three entities the owner/operator, the borrower, and the depositor in mind, that this kind of disclosure might in fact be useful.

REOCCURRENCE OF FRANKLIN

A major concern is whether a situation similar to Franklin can occur or is occurring, and your financial statements indicated over $50 million in insurance payments in 1989, excluding Franklin, were made. I assume that this is a mixture of fraud and legitimate bankruptcies.

INVOLUNTARY LIQUIDATIONS

For the seven involuntary liquidations listed in the insurance fund annual report, can you just briefly describe the circumstances that caused their liquidation?

Senator **Jepsen**. Yes; Mr. Riley is chairman of the insurance fund, and would you as director of the insurance fund respond to that.

Mr. **Riley**. I may have to provide some of this information for the record. We're looking at page 16 I guess. We'll have to provide all of it. I don't know the specifics on it. Most of these look like loss of sponsor; that is, the place went out of business or severe delinquency, the lending function, people were not repaying their loans. I don't note any of these that were involved in fraudulent type activities right offhand. The typical credit union that we liquidate or merge is not involved in fraud or insider abuse.

Are we talking on the same page?

Senator **Kerrey**. Yes; we are. If you could provide that.

Mr. **Riley**. Yes.

Senator **Kerrey**. I'm not looking for a lengthy examination or precise details, but just some sort of sense of how much of it was fraud and how much of it was legitimate bankruptcy.

[The information follows:]

INVOLUNTARILY LIQUIDATED CREDIT UNIONS

Southside FCU - Community Development Federal Credit Union

Problems

- *Poor loan quality - high delinquency
- *Excessive operating expenses
- *Insufficient profitability - over 8% of assets in non-operating assets
- *Poor record keeping practices
- *Weak Management - high employee turnover

Credit union had history of these problems since December 1986 and was slow to make corrective action. Temporary 208 Assistance was granted in the form of NCUSIF Guaranteed - Prior Undivided Earnings Deficit in December 1988. Based on profitability trends, the deficit in the credit union could not be amortized any earlier than a 7-year period.

Heartland FCU

Problems

- * Poor loan quality - high delinquency in business and real estate loans
- * Insufficient profitability
- * Poor record keeping practices
- * Weak Management

Credit union had history of above problems since 1986. 208 Assistance was granted in the form of NCUSIF Guaranteed - Prior Undivided Earnings Deficit in March 1988. Credit union was not able to meet terms of amortization schedule.

Systems # FCU

Problems

- * High delinquency - inadequate collection procedures
- * History of operational problems
- * Insufficient profitability
- * Uncontrolled operating expenses
- * Poor record keeping practices - inadequate records - records severly out of balance
- * Liquidity problems
- * Weak management - lack of internal controls - turnover of employees

History of operational problems off and on since 1983. Seven credit unions were merged into the credit union in 3 years. Serious deterioration in financial condition noted in February 1987.

Medical Employees FCU - Conservationship in 1985

Problems
- Mismanagement - manager advanced loan due dates
- Poor loan quality - high delinquency
- Insufficient profitability
- Poor record keeping practices
- Liquidity problems

Conservationship action approved November 1985 due to serious operational problems. Conservationship removed in December 1986. Credit union granted several assistance packages in the form of Prior Undivided Earnings Deficits. Last Assistance granted October 1988. Delinquency hidden for some time due to manager advancement of loan due dates which were discovered in October 1988.

Church of God CU - State Chartered - State recommended liquidation - Region accepted appointment as liquidating Agent

Problems
- High delinquency - weak lending practices
- Weak management - inadequate internal controls
- Excessive operating expenses
- Liquidity problem

Comments extracted from the examination report prepared by state examiners. Historical background information was not available because the region placed credit union in liquidation due to the state regulator's request.

Calvery FCU

Problems
- Uncontrolled expenses
- High delinquency - weak collection procedures
- Poor record keeping practices - Inadequate records - out-of-balance conditions
- Weak management - lack of internal controls

Credit union had history of above or related problems since 1981 but was able to resolve most of the problems in 1985. The treasurer who corrected the previous problems was wounded and unable to maintain the credit unions's records. The credit union again experienced the above problems and was unable to resolve them.

REGULATORY FRAUD DETECTION

Senator **Kerrey**. Do you know the extent to which FDIC or other regulatory agencies discover fraud, how much and how you compare with other regulatory agencies? Do you do that kind of comparative analysis, and are their examination procedures essentially the same as yours?

Mr. **Riley**. Actually fraud in all the financial institutions seems to run about the same, about 5 percent of all the cases that come up, whether it's in the banking or S&L or credit unions, about 5 percent tend to involve fraud. Unfortunately, they usually involve the heaviest amount of dollar losses, about 50 percent of the losses. So I think all of the financial institutions run similar type.

Senator **Jepsen**. That 4 or 5 percent, as Mike has indicated, represents about 50 percent of the claims and, subsequently, about 99 percent of the publicity. So it appears, unfortunately, that everything is due to fraud and abuse, whereas 5 percent is too high. That's just what it is year in and year out, somewhere in that area, 4 to 5 percent is what it always has run in financial institutions.

And yes, in direct answer to your question, we have compared it, and that is about the figures. Now there may be new figures in the S&L that may be forthcoming as these things unfold, but generally over the years that is what it has been.

Senator **Kerrey**. I have several other questions that I would like to submit for answering on Franklin. I'm not going to go through all of them because I would like to get to your community development credit union resolving fund.

CONGRESSMAN HOAGLAND'S HEARING

I just want to make it clear in as friendly a way as possible that I think that the testimony that was given last year in front of Congressman Hoagland's hearing that he had and was attached to the answer to the question that I asked last year again unfairly weights its extenuation toward things at the local level.

I think it by implications says that the people in the low-income area of Omaha are to some extent to blame, and I know that wasn't the precise language, but it's almost a shifting of responsibility and says because you are low income and being served by this special institution, you are essentially partly at fault here. I think that is unfair, and also I think it's unfair, as I said in the opening, that there is a sense that the local business leaders were the ones who sheltered Mr. King, and I think the preliminary remarks that I made at the start of this really stand by themselves, and we had a conversation yesterday about that thing as well.

I want to make clear as well that I appreciate, Senator, your providing us with all the information that we need in scheduling and participating in hearings that were held in Nebraska. I understand in these sorts of situations that it is always difficult to get to the bottom of it, and it's always painful to do a retrospective analysis of it and discover your own errors, no matter whose errors they are, and I appreciate the willingness of NCUA in general really to provide us with all the information that we need in order to be able to communicate to the people in Nebraska exactly what happened.

STATUS OF CDCU REVOLVING FUND

The status of the community development credit union revolving fund provides me with a couple of questions here. The budget proposes transferring these funds to the Neighborhood Reinvestment Corporation, but your prepared statement implies otherwise. Is there a reason for that change?

Senator **JEPSEN**. Mr. LaPorte, do you want to respond to that or Mr. **POLING**.

Mr. **POLING**. OMB's position is to transfer it to the Neighborhood Reinvestment Corporation, but Congress has said you ought to go with the loan program. So our budget was submitted with the intention that we will loan out that money.

Senator **KERREY**. How many applications have you received so far and for what amount?

Senator **JEPSEN**. Five applications, and we sent out the request to 195.

Mr. LaPorte, do you want to elaborate on that?

Mr. **LAPORTE**. Yes; we did identify 195 limited-income credit unions and sent them information concerning the program, including the rule established by NCUA which provided them with the opportunity to file an application until March 30 of this year. As of yesterday we have received 5 applications from the 195 potential participants.

The amount of funds so far has varied. The statute provides that an individual loan may not exceed $200,000. We have received one application from a credit union requesting $25,000, and the other ones will vary any place from $100 up to the maximum of $20,000.

BORROWER PROFILE

Senator **KERREY**. Can you give me a sense also for the record of what the profile would be for a typical borrower, the use of funds, the term of repayment, categorization of risk, and how the applications are ranked and evaluated?

Mr. **LAPORTE**. From the standpoint of the process of review and approval, we have established within NCUA a representative from each of our six regions that are represented on a committee that will do the initial review of the application and make recommendation for either approval or denial.

We are very hopeful that there will be a limited number of denials because I think there is a valid need for the funding within the limited-income credit union community. There is a great deal of need on the part of the participants in a limited-income type credit union.

The profile of the credit unions——

Senator **KERREY**. No; of the borrower.

Mr. **LAPORTE**. Of the borrower?

LOAN RISK

Senator **KERREY**. Yes; and the use of the funds and the evaluation of the risk. Are these risky loans?

Senator **Jepsen**. The credit union is the borrower, and maybe we're getting into semantics here. The borrower from the revolving fund is the credit union itself.

Senator **Kerrey**. Are these risky loans as you see it?

Mr. **LaPorte**. Again, as the Senator was mentioning, the loan is made directly to the credit union and not to a member of the credit union.

Senator **Kerrey**. No; I understand.

Mr. **LaPorte**. I would say absolutely they will not be, in my opinion, and I believe that of the organization, these loans will not be granted to risky type credit unions, credit unions that are not financially safe and sound and properly managed. That will certainly be one of the criteria I believe that we will set on the granting of the loans.

Senator **Jepsen**. We put those parameters on and it created a lot of heat for a while from the organizations saying that we were being too tough.

I certainly agree with you, Senator, in your remarks this morning. One of the things that ought to be done regardless of what kind of credit union it is, it ought to be a safe and sound credit union, and it ought to be managed on a businesslike basis because everybody suffers if it isn't.

LOAN CRITERIA

So having been given this responsibility, we carefully studied and set down some very solid and prudent criteria, and they should be nondebatable criteria and guidelines for these credit unions getting these loans, and they were just based on a good, solid business basis, which gets to your question. The loans, therefore, ought to be more secure and more solid than subsequently with the business plans which they resisted tremendously. Business plans they must now provide, among other things, for the use of these things. It's just good business for everybody and the loans should be ones that will continue and be repaid and, hopefully, be available to help somebody else.

COMMUNITY IMPACT

Now the community credit unions themselves reach out and provide access to credit folks who probably would not fit the profile to get credit in a lot of other institutions. That's one of the reasons for their existence and the structure and the history and the nature have been that way. They provide access to credit for people who probably couldn't get credit anywhere else.

That just means that extra work and extra effort and extra supervision must be followed to make these things, and because they are nonprofit institutions is the reason they can do that.

Senator **Kerrey**. So you confirm the general financial soundness of the credit unions?

Senator **Jepsen**. They have to be financially sound and well operated before they will be able to participate in this revolving loan fund.

SAFETY AND SOUNDNESS OF CU'S

Senator KERREY. The annual report of the insurance fund shows 794 credit unions with $8.4 billion in shares that have a cameral rating of 4 or 5, in other words, a weak or unsatisfactory safety or soundness position, and while there is a substantial improvement over the previous year, do you consider this high enough to be of concern to you?

Senator JEPSEN. Well, one would be a concern to us. This is a dramatic decrease and primarily because of the problem that we put into being here 1½ years ago that we called our Four and Five Program where we have increased supervision and we have allotted 150 percent more manpower toward credit unions whose parameters and whose specs after our examinations and our research and followup on them reveal that they are weak in some areas or are heading toward or trending toward some problem areas.

We act very quickly, and we take action that involves the credit union and the board of directors and it involves it in the form of a contract basis. They have letters of understanding and everybody on the board must sign off on it as well as the management. Our people that are involved with it all must sign off on it, and then they are visited monthly or quarterly or whatever the situation dictates and they have a limited amount of time to work these things out.

So the figures, in answer to your question, are higher than we would like them to be, they are lower than they have been in many years, they are heading in the right direction, as are all the other things of the credit unions, and we are concerned to the extent that if there was one of these, it would be one too many.

CU TRENDS

Senator KERREY. Are there trends or shifts that you're following right now that might be of interest to the committee?

Senator JEPSEN. All the benchmarks and measurements for safety and soundness and success of financial institutions in the credit union community are all headed in the right direction and there has been good, and in some areas, dramatic improvement as a result of our programs, our examinations, and the training we've got, and we would be pleased to provide the comparisons to you.

Senator KERREY. Are there triggers that you would watch for that would cause you concern? I mean do you have benchmarks against other regulatory agencies to determine how well you're doing?

Senator JEPSEN. Well, do we have benchmarks? The answer to that is "Yes." We would have to really have our head in the sand if we didn't learn from the lessons that have been highly publicized over the last several years with the problems that have occurred, the very tragic ones I might add, in the savings and loan industry especially and in the FSLIC. The deposit insurance fund is a black hole, as everyone knows. The trends in the FDIC, unfortunately, are not going in the right direction.

We study these, we have monthly staff meetings on them, and we do everything that we can to learn and then take action and have done this ever since I've been there. So on my watch we have standard operating procedure whereby senior staff and directors together meet and review monthly the latest developments and trends in our own internal cases as well as the reports that have come from other financial institutions.

We have strengthened our operation considerably on the basis of the road map or the mistakes that have been made in other areas, and as I say that, it gives me no pleasure or anything to say that that's the way you have to do it, but we have.

Senator KERREY. Senator D'Amato has joined us here and he has asked for 30 seconds. He can have as long as it takes.

We welcome you.

SENATOR D'AMATO'S STATEMENT HIGHLIGHTS

Senator D'AMATO. The chairman has laughed at that 30 seconds. He knows that it takes longer than that for me.

Senator KERREY. Just to say hello. [Laughter.]

Senator D'AMATO. That's basically, Mr. Chairman, what I can do because I have an 11 o'clock meeting, just as you have about five subcommittee meetings all set at the same time, and I want to assure our former colleague and my good friend, Roger Jepsen, that nothing has changed. It's more frenetic and there's less time and you don't get an opportunity to look at things calmly or even to exchange some pleasantries. That's a big deal when I get to see my friend, Senator Kerrey, once in a while and exchange more than a "How are you doing." That's like a wonderful occasion. That's unfortunate, but it hasn't changed.

I just want to say, Mr. Chairman, in this sea of turbulence in the financial services community, the one strength that we have seen that has not cost our taxpayers money—and of course a lot of our banker friends would like to get ahold of them, you know, and get some of their good, juicy reserves that they have—has been the credit unions.

I want to commend Roger Jepsen and his great staff because, as you know, without that staff and that professionalism and people who care and don't just go through the motions, it becomes impossible for any of us. He is to be commended for the leadership that he has brought to the table to support them as well, and it certainly is an example of the kind of financial services that I think we all recognize are important.

I know that in Nebraska the credit unions are a very strong part of community life, and they are very necessary, and I would commend you to continue your course of conservative, prudent management and moving the standards as you have. That's the only way you'll keep the devils from the door. You know, you've got to be better than them because they will be there to gobble you up if they can, under any pretext or tax to do this, to do that, and to do the other thing, and they can shovel more money out abroad, you know. That's the way they like to operate. That's my own prejudice, Mr. Chairman.

I've gone well, well beyond the 30 seconds. [Laughter.]

You knew I would, and I would ask that I be permitted to submit my statement for the record as if read in its entirety.

Senator KERREY. Without objection.

We thank you, Senator, for your testimony.

Senator D'AMATO. Thank you.

Senator JEPSEN. It's good to see you again, Senator.

Senator KERREY. I have a number of other questions that again I would submit for you to answer.

CLF FUNDING

The only one that I would like to discuss just briefly before we let you go, Senator, is that it appears to me from examining the Central Liquidity Facility financial statement that all loans are funded by borrowing from the Federal Financing Bank since loans to the credit unions and the FFB borrowing are identical figures, and that the interest you pay on your borrowing is more than the interest you earn on the loans.

Why would you do that with all of the capital stock equity available to make loans with?

Senator JEPSEN. Mr. LaPorte, do you want to address that, or Mr. Riley, one of the two of you, whichever one.

Senator KERREY. Have we evaluated it incorrectly?

Mr. RILEY. Any money that we borrow from the FFB and we reloan to a credit union is going to be loaned at a little higher rate. We at least make our operating cost, if I heard your question correctly.

Senator KERREY. It appears that the interest you pay on the borrowing is more than the interest that you earn on the loans. On page 6 we've got interest on loans, a 1990 estimate of 11,885 and Federal Financing Bank interest costs are 12,758.

Mr. POLING. We have interest income on loans of $11,865,000 but we also have expense on borrowings of 12,758. That statement does reflect that we would possibly be borrowing at a higher rate at the Financing Bank and then loaning out to the credit unions, but in reality that is not true, and I would like to provide that analysis on the statement for the record.

Senator KERREY. If you would, I would appreciate it.

[The information follows:]

CLF INTEREST SPREAD

The economic assumptions used in the preparation of the CLF financial condition on page 6 of the CLF justification projected out to an overstatement of interest expense on the FY 90 Estimate. Historically the CLF has earned between 100 to 300 basis points on its loans to credit unions from its borrowings from the Federal Financing Bank.

Senator KERREY. As I indicated, the other questions I can just submit and get them answered later.

Again, I appreciate very much, Senator Jepsen, you making the trip over and appreciate the job you're doing. I think it's exceptional.

Senator JEPSEN. Thank you, Senator. Thank you for letting us appear, and we will be pleased to provide the things that you asked today and at any other time you ask for them, and if they don't get supplied promptly, give me a call.

Senator KERREY. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR KERREY

CREDIT UNION AUDIT CONTROL

QUESTION: Since bank examinations and CPA audits are annually, many large organizations have an internal audit staff to provide a continuing control. Do most credit unions have an internal audit staff, or are they too small? What are your requirements in this regard?

ANSWER: All federal credit unions are required by statute, (12 U.S.C. 1761), to appoint a supervisory committee, whose responsibilities are similiar to those of an internal auditor. The supervisory committee is required to perform an annual audit and biannual verification of member accounts. As you know, the supervisory committee members are unpaid, volunteers from among the membership of the credit union. In addition, many large credit unions also augment the functions of the supervisory committee by permanent, paid internal audit review staff.

Federally insured state-chartered credit unions, although not required by federal law to appoint a supervisory committee, are required to meet the same annual audit and biannual verification of member accounts requirement as for federally-chartered credit unions. As a practical matter, many state credit union laws also require appointment of a supervisory committee to fulfill these federal requirements. Similarly, large state-chartered credit unions also hire permanent internal audit staff.

Small credit unions generally cannot afford to hire internal audit staff, however, the operations and services offered by small credit unions mitigate against the need to provide for the type of controls and oversight that an internal audit staff would provide. Aside from the requirement to establish a supervisory committee discussed earlier, neither federal or state law require credit unions to hire internal audit staff.

NCUA EXAMINER FORCE HIGHLIGHTS

QUESTION: You have hired several additional examiners, strengthened the fraud-related aspects of their examination, and increased training.

- How many additional examiners have been added?
- How many examiners in total do you have now?
- How many is that per credit union?
- Is that enough?
- What has been the turnover over the past few years?
- What is an examiner's backgroud -- college-trained accountant? How much are they paid? How does that compare with other regulatory agency bank examiner salaries, or with other professions for that type of education?

ANSWERS: The National Credit Union Administration increased its examiner staff by 207 examiners since 1987. Currently, there are 587 examiners of staff. Examiners are assigned districts of approximately 15 - 20 federal credit unions. We believe that we currently have sufficient staff to examine and supervise all federally insured credit unions. Examiner turnover rates for the last 5 years have been as follows:

YEAR	TURNOVER RATE
1985	15.6%
1986	11.7%
1987	11.6%
1988	13.2%
1989	10.1%

New examiners are all college graduates, most of whom have accounting degrees. Those few without accounting degrees generally have related work experience in the accounting field. New examiners are hired at the General Schedule 7 level which currently has a salary range beginning at 20,195 per year plus NCUA pays a geographic differential for cost-of-living differences. Our information indicates that NCUA examiner salaries are typically lower than those of other regulatory banking agencies or private industry rates. According to the September 1989 Salary Survey by the College Placement Council, Inc., recent college graduates with accounting majors received an average salary offer of $25,223 or 25 percent above the general schedule rate offered to new NCUA examiners. At the same time, we understand that starting salaries for other banking regulatory agencies are as follows:

- FDIC	GS Schedule plus 10% plus geographic differentials;
- OTS	GS Schedule plus 8.1%;
- FCA	GS Schedule plus 3%;
- OCC	Above GS Schedule (no direct comparison available);
- FRB	Above GS Schedule (no direct comparison available.

CLF BORROWING RATES

QUESTION: It appears from examining the Central Liquidity Facility financial statements that all loans are funded by borrowing from the Federal Financing Bank (since loans to credit unions and FFB borrowing are identical figures) and that the interest you pay on your borrowing is more than the interest you earn on your loans. Why would you do that with all the capital stock equity available to make loans with?

Your analysis of the financial statements is correct in that the majority of the loans granted by the Central Liquidity Facility are funded by borrowings from the Federal Financing

Bank. There are occassions, however, when loans are funded directly by the Central Liquidity Facility. Normally these are loans for less than one million dollars or the terms of the loan (s) are less than 30 days.

Regarding the interest rate paid to the Federal Financing Bank and the rate charged by the Central Liquidity Facility I would have to say that the estimates for Fiscal Years 1990 and 1991 were based on economic assumptions which are no longer valid coupled with the fact that whenever the Central Liquidity Facility borrows from the Federal Financing Bank inorder to fund a loan request, the interest rate charged by the Central Liquidity always exceeds the rate charged by the Federal Financing Bank. The spread is generally either 1/8% or 1/4%.

For Fiscal Year 1989 the cost of our borrowings from the Federal Financing Bank totalled $9.6 million while income generated from loans to members was $9.9 million. For Fiscal Year 1990 through March 31, borrowing costs were $4.1 million while income from loans was $4.2 million. Therefore, we would not set a rate for a loan financed with a borrowing from the Federal Financing Bank less than our costs for the funds.

QUESTION: How is your interest rate on loans to credit unions determined?

The interest rate charged on loans by the Central Liquidity Facility is determined in a number of ways. When the loan is funded by a borrowing from the Federal Financing Bank, 1/8% to 1/4% is added to our cost of funds from the Federal Financing Bank. If the proceeds are used to fund a loan under the Investment Liquidity Program, then 1/8% or 12 and 1/2 basis points are added to what we are charged by the Federal Financing Bank. This provides the receiving credit union a little spread to help improve their bottom line. The credit unions that participate in this program are 208 type credit unions.

If the loan is funded by the Central Liquidity Facility, we normally add 25 basis points to the rate that we would be earning on our overnight investments. This usually is a slightly higher rate than what would have been computed if the funds were obtained from the Federal Financing Bank.

The advertised Central Liquidity Facility lending rate is determined by taking a survey of all the corporates regarding their lending rates. These are averaged out and compared to past activity as well as other market factors such as the prime lending rate. This is done every month and results with a recommendation to the NCUA Board who actually sets the rate. As stated previously, this is done monthly but has been done more frequently when there is activity in the market as there was earlier this year which resulted in the drop of the prime lending rate. The current lending rate for the Central Liquidity Facility is 10.25%

CU PARTICIPATION IN CLF

QUESTION: As we read your earlier financial statements, the credit unions participating in the CLF exceed the number of Federal Credit Unions, and also exceed insured federal and state credit unions. Could you explain how this works?

In response to the question concerning the number of participating in the Central Liquidity Facility versus the number of Federal and Federally Insured State Chartered Credit Unions we would point out that membership in the Central Liquidity Facility is open to all credit unions whether federally insured or not. As of September 30, 1989, there were 13,548 federally insured credit unions. In addition, there are approximately 1,500 non-federally insured credit unions thereby making potential membership in the Central Liquidity Facility 15,048. The Central Liquidity Facility applies the same strict credit standards to both federally and non-federally insured credit unions and we do not believe there is any greater credit risk involved in extending credit to a non-federally insured credit union.

NCUA STATE CREDIT UNION CONTROL

QUESTION: NCUA insures state-chartered credit unions. Do you have the same control over their operation as you do federal credit unions?

ANSWER: No. Federally insured state-chartered credit unions must meet certain regulatory requirements pertaining to safety and soundness concerns and risk to the National Credit Union Share Insurance Fund (NCUSIF). These include full and fair disclosure provisions, minimum surety bond requirements, audit and verification standards, loan policies and other requirements. State credit union law and state regulatory agencies exercise independent control over state chartered institutions on a state-by-state basis.

The NCUA and state supervisory authorities, through the National Association of State Union Supervisors, have developed a Document of Cooperation to insure that all federally insured credit unions are adequately examined and supervised. The Document of Cooperation establishes minimum examination steps to be performed during each examination, whether performed by a state or federal examiner. In addition, criteria are established to determine whether federal examiner participation on the examination of a state-chartered credit union is necessary. In addition, NCUA provides state examiners with training, personal computers and a automated examination program. Examination workpapers are developed with the participation and cooperation of the state supervisory authorities. State supervisory statements from all federally insured state-chartered credit unions. In this way, NCUA receives assurance that the examination and supervision of all federally insured credit unions is adequate to protect the interests of credit union members and the NCUSIF.

DECLINE IN CREDIT UNIONS

QUESTION: In looking at your 1987 annual report, we note that the number of federal credit unions grew steadily from the 1930s through the 1970s, but has declined steadily since then from a peak of 13,050 in 1978 to 9,446 in 1987 -- a drop of nearly 30 percent. Why?

ANSWER: Through the 1970s, the number of credit unions grew, along with the general economy of this country. By the end of the 1970s the effects of increasing inflation and high interest rates caused a number of industries to fail. The field of membership of many credit unions was based on the employees of a specific company or industry. As a result, when a company or industry failed, those credit unions related to that company also failed. Through 1982, the decline in the number of credit unions was the result of liquidation of the institution. Beginning in 1983, a field of membership policy change permitted many credit unions to merge into existing credit unions. As a result, membership in credit unions was preserved for many individuals.

Deregulation of interest rates and increased competition has also played a major role. Competition for rates and services in the early 1980s forced small and inefficient credit unions to merge into larger credit unions who could effectively compete and offer the variety of services which members demanded. To a certain extent, this demand for services and competition continues to be a leading cause of credit union mergers today. Although the number of federal credit unions continues to decline, the number of insured accounts and total insured savings held by credit unions has always increased.

DEPARTMENT OF DEFENSE—CIVIL

ARMY CEMETERIAL EXPENSES

STATEMENT OF STEVEN DOLA, DEPUTY FOR MANAGEMENT AND BUDGET, OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

ACCOMPANIED BY:

THURMAN HIGGINBOTHAM, DEPUTY SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY

RORY SMITH, BUDGET OFFICER, ARLINGTON NATIONAL CEMETERY

OPENING REMARKS

Senator KERREY. The next activity is Army cemeterial expenses. This subcommittee is pleased to welcome our next witness, Mr. Steven Dola, Deputy for Management and Budget in the Office of the Assistant Secretary of the Army for Civil Works.

He is responsible for policy direction governing development and implementation of the civil works budget in accordance with the Department of the Army's goals and priorities for water resource development.

We thank you for appearing before this subcommittee and ask you to go ahead and proceed with your remarks.

Mr. DOLA. Thank you very much, Mr. Chairman.

INTRODUCTION OF ASSOCIATES

With me on my right is Mr. Thurman Higginbotham, Deputy Superintendent of Arlington National Cemetery, and on my left is Mr. Rory Smith, Budget Officer.

I appreciate the opportunity to appear before the subcommittee in support of the fiscal year 1991 appropriation request for cemeterial expenses, Department of the Army.

The Superintendent of Arlington National Cemetery, Mr. Ray Costanzo, regrets that he is unable to appear before the subcommittee this morning. The Prime Minister of Poland will visit Arlington this morning and the State Department Office of Protocol has requested that Mr. Costanzo escort the Prime Minister during his visit.

With your permission, Mr. Chairman, I will summarize my opening statement and submit the full statement for the record.

SUMMARY OF STATEMENT

My colleagues and I are appearing on behalf of the Secretary of the Army, who is responsible for the operation and maintenance of Arlington and Soldiers and Airmen's Home National Cemeteries. The funds requested will finance operations at both cemeteries.

The request for fiscal year 1991 is $12,236,000 and would be used to support the work force, assure adequate maintenance of the buildings, acquire necessary supplies and equipment, and construct new facilities and maintenance shops.

Arlington National Cemetery is this Nation's principal shrine to the men and women who served in the Armed Forces. In fiscal year 1989 there were 3,051 interments and 1,155 inurnments. For fiscal year 1990, 3,200 interments and 1,210 inurnments are estimated. And for fiscal year 1991, the budget year, the estimates are 3,360 interments and 1,270 inurnments.

Also, during fiscal year 1989, Mr. Chairman, Arlington National Cemetery accommodated over 4 million visitors, making Arlington one of the most visited historic sites in the National Capital region.

In this regard, although not covered in my complete statement, I believe it worthy of mention that we have received a proposal regarding the establishment of an historical society for Arlington National Cemetery. The concept of an historical society for Arlington Cemetery is one that the Army supports, and the specifics of the proposal are under review by the Army General Counsel.

Approval of the fiscal year 1991 request will permit continuation of the high standards of maintenance expected at these cemeteries.

Mr. Chairman, this concludes my remarks, and we'll be pleased to attempt to answer your questions.

Senator **KERREY**. I appreciate it, Mr. Dola.

[The statement follows:]

STATEMENT OF STEVEN DOLA

Madam Chair and Members of the Subcommittee, I appreciate the opportunity to appear before this subcommittee in support of the fiscal year 1991 appropriation request for Cemeterial Expenses, Department of the Army. With me today are Mr. Thurman Higginbotham, Deputy Superintendent of Arlington National Cemetery, and Mr. Rory Smith, Budget Officer, also from Arlington National Cemetery. We are appearing on behalf of the Secretary of the Army, who is responsible for the operation and maintenance of Arlington and Soldiers' and Airmen's Home National Cemeteries. The funds requested will finance operations at both cemeteries.

The request for fiscal year 1991 is $12,236,000. The funds requested are sufficient to support the work force, to assure adequate maintenance of the buildings, and to acquire necessary supplies and equipment.

The increase of $71,000 in operation and maintenance is primarily due to an estimated increase in the cost for grounds maintenance and security contracts, road repair, and building maintenance. Funding increases have been kept to a minimum and will provide adequate maintenance standards expected at this national shrine.

In fiscal year 1989 there were 3,051 interments and 1,155 inurnments; we estimate 3,200 interments and 1,210 inurnments in fiscal year 1990; and 3,360 interments and 1,270 inurnments in fiscal year 1991.

CEREMONIES

Arlington National Cemetery is this Nation's principal shrine to honor the men and women who served in the Armed Forces. It is a visible reflection of America's appreciation for those who have made the ultimate sacrifice to maintain our freedom. In addition to the thousands of funerals, with military honors, held there each year, hundreds of non-funeral ceremonies are conducted to honor those who rest in the cemetery. Thousands of visitors, both foreign and American, visit Arlington to participate in these events. During fiscal year 1989, about 1,900 ceremonies were conducted. Among the many distinguished participants were six foreign heads of state—President Bissal, of Guinea, President Moussa Traore, of Mali, Prime Minister Margaret Thatcher, of Great Britain, Dr. Kwett K.J. Masire, President of Botswana, President Mobutu, of Zaire, and Prime Minister of Japan, Toshiuki Kaifu. In addition, President Reagan participated in ceremonies on Veterans Day in 1988 and Vice President Quayle participated in Memorial Day services in 1989. During fiscal year 1989, Arlington National Cemetery hosted over 4 million visitors, making Arlington one of the most visited historic sites in the National Capital Region.

COLUMBARIUM

Inurnment activities in the Columbarium continue to increase. In 1980, the first year of operation, we had 657 inurnments. Because of the advanced age of our World War I and World War II Veterans, we are now averaging approximately 1,200 inurnments per year. At this rate all available space in the existing Columbarium will be exhausted by May, 1990.

Fiscal year 1989 funds in the amount of $5,764,000 were appropriated to construct a 10,000 niche addition to the Columbarium. In September, 1988, we advised the subcommittee of a possible increase in the cost of the next phase of the Columbarium project. However, as a result of design modifications, a contract was awarded, June, 1989, for approximately $300,000 less than the amount appropriated. The new addition will be completed in April, 1990. Another 10,000 niche addition to this facility is projected to be required in fiscal year 1997.

VISITORS CENTER AND PARKING FACILITY

The new Visitors Center and Parking Facility was opened on January 16, 1989. Parking fees are collected from visitors using this facility. Under the paid parking plan, $740,000 of revenue was returned to the United States Treasury in Calendar 1989. A new lease for the operation of the parking facility was recently negotiated. Under the terms of this new lease, funds estimated at $850,000 will be returned to the United States in Calendar 1990.

Initially, there was an adverse reaction to the paid parking requirement by commercial tour bus operators. This has now subsided, and the paid parking concept at Arlington National Cemetery appears to be generally accepted.

During the peak visiting season, approximately 2,400 cars and 120 buses per day use the facility. During the winter season, use declines to approximately 600 cars and 20 buses per day.

MAINTENANCE BUILDINGS

The new maintenance shops and warehouse being requested in fiscal year 1991 are estimated to cost $4,778,000, and would replace buildings constructed in 1930. These were originally constructed as horse stables and converted to a cemetery maintenance facility in the late 1940s. They were not designed to house or service modern cemetery equipment; consequently, they are inadequate for those purposes. Moreover, the facility does not meet the current OSHA standards.

The proposed facility would be designed to meet current building standards and be more conveniently located to facilitate the daily operations of the cemetery.

Approval of our fiscal year 1991 request will permit us to continue the high standards of maintenance Arlington National Cemetery deserves.

Madam Chair, this concludes my remarks. We will be pleased to respond to questions from the subcommittee.

INTRODUCTION OF ASSOCIATES

Senator **Kerrey**. For the record, could you introduce the people who are with you.

Mr. **Dola**. Yes; on my right is the Deputy Superintendent of Arlington National Cemetery, Mr. Thurman Higginbotham, and on my left is the Budget Officer, Mr. Rory Smith.

BUDGET REDUCTION

Senator **Kerrey**. Thank you.

The budget reduction, is that an anomaly or is that a trend that you see, reduced budgets?

Mr. **Dola**. I don't believe it's a trend. It's a reflection of what we are having going on in 1990 compared to what is going on in 1991, and we have a rather major construction project occurring in 1991, and that is the $4.8 million for the new facilities maintenance shops, whereas, for example, in 1989 we had $5.8 million for the Columbarium, and in 1990 there are other important projects going on, specifically, the $1.9 million for the demolition of the temporary visitors center and $2.4 million for major road repairs.

So I think it's an anomaly rather than a particular trend that we need to be concerned about, sir.

OMB REQUEST

Senator KERREY. Did you ask for more than 12.2 to OMB?

Mr. DOLA. Mr. Chairman, we did. We asked for $165,000 more than we actually received.

Senator KERREY. What is the impact of not getting that $165,000?

Mr. DOLA. Well, we took some reductions in several areas: personnel, $40,000; other services, $57,000, things such as building maintenance; supplies, $25,000, things such as fertilizer; lands and structures, $43,000, things such as tree replacements. These are reductions, but we do not believe they will have a major impact.

INFORMATION MANAGEMENT SYSTEM

Senator KERREY. Why are there no funds for the management information system in the 1991 request?

Mr. HIGGINBOTHAM. The development of the information management system is 95-percent complete and has been funded within the budget.

ADEQUACY OF BUDGET

Senator KERREY. Does this budget, in your opinion, then maintain the appearance of the cemeteries and does this budget prevent larger repairs, or are we involved in deferred maintenance?

Mr. DOLA. We think this budget is a good budget and will maintain the high standards of maintenance expected at these two cemeteries.

Let me explain further, Mr. Chairman. There are some major items of equipment that in prior years we did not get around to purchasing because of budget constraints, but the 1991 budget does provide those, specifically, a tow truck, a backhoe, two 5-ton trucks, and two tractors that are in need of replacement and will be replaced.

MASTER PLAN

Senator KERREY. Is the administration committed to the 1967 master plan for the Arlington Cemetery?

Mr. DOLA. Yes; there are several projects that yet remain to be done, and it's my belief and understanding that probably the 1967 master plan ought to be revisited.

Would you want to comment further.

Mr. HIGGINBOTHAM. I think we're pretty much in line with that plan; we will provide a list of funded projects for the record.

Senator KERREY. All right. Thank you.

[The information follows:]

REMAINING UNFUNDED MASTER PLAN PROJECTS

The two remaining unfunded projects to be completed from the Master Plan are the Land Development Project and replacement of the Custis Walk.

MAINTENANCE FACILITY

Senator **KERREY**. What is the plan to award the contract for the new maintenance facility, and do you anticipate any problems in obligating the 1991 funds?

Mr. **HIGGINBOTHAM**. No; we are currently doing an engineering feasibility study. That study will provide a better plan.

Senator **KERREY**. What are your plans then for the awarding of the contract? Do you have a schedule out there?

Mr. **HIGGINBOTHAM**. We're looking at 1991.

Senator **KERREY**. So does that create any problems in obligating funds for 1991, the 1991 funds?

Mr. **DOLA**. We don't expect any problem. We have requested that, and we don't expect any problem to occur.

INTERRUPTION OF SERVICES

Senator **KERREY**. Is there going to be any interruption of space at all in the National Cemetery that you see, or the availability of space?

Mr. **DOLA**. Not in the short run. The Columbarium project that we will be completing in May of this year will meet a need that is necessary there, Mr. Chairman, and, in terms of interments, there is space, I believe, until the year 2025.

Senator **KERREY**. Is that expansion within the budget and is it on schedule?

Mr. **DOLA**. Yes.

Mr. **HIGGINBOTHAM**. Yes; it is.

PARKING FACILITY

Senator **KERREY**. Let me ask you about the vendor operation Visitors Center and the parking garage. Again I'm looking for the administration's commitment to the Arlington National Cemetery as conveying a feeling of national gratitude and respect for those who served the country. Is the current facility experiencing any problems at all in its operation?

Mr. **HIGGINBOTHAM**. No; it's not.

Senator **KERREY**. Public acceptance has been good?

Mr. **HIGGINBOTHAM**. Generally, yes. Initially we had inquiries concerning paid parking.

COMMENTS AND CRITICISMS

Senator **KERREY**. Are there any comments or criticism of the Arlington or Soldiers and Airmen's National Cemeteries?

Mr. **DOLA**. As with any agency, we do occasionally receive comments and criticisms, Mr. Chairman, and they are in such areas as the restrictive interment requirements, that policy; the fact that weeds do occasionally appear in the lawn; and the traffic control patterns are sometimes a source of complaint. We take those complaints very seriously and answer them individually in a positive manner.

We certainly do share the gravity and the concern which you and Chairwoman Mikulski and others in Congress have for this national shrine, and we have a commitment, the Army has a commitment, and I'm sure the administration has a commitment, to preserve the dignity of that important national asset.

Senator **Kerrey**. I appreciate that.

ADDITIONAL COMMITTEE QUESTIONS

There are some technical questions that I would like to get answered, but I'll just submit those for answering later.

I appreciate your taking the time to come over today, and thank you for your testimony.

Mr. **Dola**. Senator, we will be happy to answer those questions for the record.

Senator **Kerrey**. Thank you.

[The following questions were not asked at the hearing, but were submitted to the agency for response subsequent to the hearing:]

Questions Submitted by Senator Mikulski

LANGUAGE CHANGE

Question. In your 1991 budget proposal, did OMB add the request to delete from the appropriation language the phrase "to remain available until expended."?

Answer. Yes, OMB did recommend the language change and we believe they have done so for valid reasons.

Question. Why is the Administration seeking this loss of flexibility?

Answer. The advantages of the proposed language change are several: the ability to close out accounts annually, the elimination of prior year accounting, and the ability to fit into standard Army accounting systems which are designed to handle annual appropriations. There will be some loss of flexibility, to be sure, but we do not see this as a major problem.

U.S. COURT OF VETERANS APPEALS

STATEMENT OF MELANIE G. DORSEY, EXECUTIVE OFFICER, CLERK OF THE COURT

ACCOMPANIED BY:

KENNETH B. KRAMER, ASSOCIATE JUDGE
JOHN J. FARLEY III, ASSOCIATE JUDGE
JAMES L. CALDWELL, JR., CHIEF DEPUTY CLERK

INTRODUCTORY REMARKS

Senator KERREY. The fourth panel is the Court of Veterans Appeals.

First of all, let me just say that I regret that the court's Chief Judge, Judge Frank Nebeker, could not be with us today due to the unexpected death of a close friend.

The subcommittee does, for the record, extend its sincere condolences to Judge Nebeker.

We are pleased that the clerk of the court, Ms. Melanie Dorsey, is here to testify on the court's 1991 budget. This is the court's first appearance before the subcommittee and we welcome you today.

At some point when you begin, I would appreciate if you, for the record, would introduce the other people that are here.

I will say for the record that the Court of Veterans Appeals was created in October 1989, and it's the first time veterans, who are not satisfied with the decisions made by the VA's Board of Veterans Appeals, may challenge these decisions.

You're requesting a budget of almost $9 million, which is more than double last year's appropriation. The large increase you are seeking will pay for the doubling of your staffs, bringing on new judges, and moving to new quarters.

We look forward to hearing from you this morning and learning more about the new opportunities the court is providing to this Nation's veterans.

Ms. DORSEY. Good morning, Mr. Chairman.

Thank you for the opportunity to appear here this morning.

INTRODUCTION OF ASSOCIATES

With me today are two of the court's associate judges, Judge Ken Kramer to my right and Judge John Farley III.

Senator KERREY. Good morning.

Ms. DORSEY. Also with me, Senator, is Jim Caldwell, who is the chief deputy clerk of the court.

Senator KERREY. Good morning.

OBSERVATIONS ON BUDGET REQUESTS

Ms. Dorsey. As the chairman noted, I am here in lieu of Chief Judge Nebeker today. I have not brought a prepared statement and I do not intend to read the Chief Judge's written statement that he submitted earlier to the subcommittee.

I would like to offer a few observations about the court's budget request for fiscal year 1991 that the Chief Judge would offer were he here today.

Because of the newness of the court, and the court only commenced operations last October 16, by necessity the estimates that the court has put together are estimates, and they have to be estimates at this stage, but they are good faith estimates that the Chief Judge has made. He has done so in as conservative a manner as possible, but also in a manner that is consistent with giving the court enough manpower and operational facilities to be fully operating in fiscal year 1991.

SECTION 509

Also because of the newness of the court, Mr. Chairman, the court is requesting that the court again this fiscal year be exempt from section 509 of the 1990 VA, HUD and Independent Agencies appropriations bill so that the customary division between personnel and nonpersonnel costs will not be applicable to the court and, therefore, we would have more flexibility and fluidity with the court's funds.

RENT

By way of comparison, Senator, the court's budget request for 1991 is consistent with both the U.S. Court of Military Appeals' budget, which is a Federal court with three judges on it, and is also roughly the same as the current budget for the D.C. Court of Appeals where Judge Nebeker served for 18 years, and there are nine judges in that court with five very active senior judges.

However, neither of those courts has a rent expense, and the U.S. Court of Veterans Appeals anticipates a considerable rent expense, particularly in 1990 when it moves into its permanent quarters.

I would like to touch very briefly on four areas that are significant in the court's 1991 budget request, the first being the rental expense that I mentioned. Since September 1, the court has been housed in the Commonwealth Building here in Northwest Washington at 1625 K Street. It's where Judge Nebeker was when he was Director of the Office of Government Ethics. He knew of the space and moved the court in there as of September 1.

Judge Nebeker has said it is definitely a sanctuary of last resort. It's very primitive quarters and will be very crowded because it used to have 30 people in it, and we are anticipating having approximately 70 people in that very same space.

The Chief Judge started looking for permanent quarters last spring even before he was officially confirmed. He had the blessing of Senator Cranston and Congressman Montgomery to go ahead and start the search for permanent quarters.

With the GSA's assistance, the court has located a permanent space that is in Northwest Washington, and, by statute, the court must have its principal place of business in Washington, and, also by statute, the court must have space adjacent to the permanent facilities for expansion purposes. The location that has been found by GSA would meet both of those statutory requirements.

The lessor signed the lease in early March of this year. Currently, the GSA Legal Department is reviewing the lease, and right now we are in the midst of the plans and modifications for buildout of that location.

The building is at 625 Indiana Avenue near Judiciary Square and near the other Federal and local courts there, and the plan is to have approximately 30,000 square feet, again to allow for expansion, and that would be the top three floors of that building.

The buildout for the quarters will be expensive. An example of one of the expenses is because of the need for the court to have a modest courtroom, obviously to hold hearings in that facility, and, to do so, two columns in the top floor must be removed. The courtroom, as I say, will be modest, but it will be large enough for all seven judges in case the court needs to sit en banc to hold en banc hearings. But again, removing those two columns will be a significant expense.

Also, the GSA's rental estimates grew by $600,000 since the start of this process. When we first had estimates from GSA, we thought it was going to be $600,000 less than it ultimately turned out to be, and we have initiated the paperwork to amend our budgetary request with the Office of Management and Budget to reflect that addition that GSA came up with for its final figures.

Much of that $600,000 increase though, Mr. Chairman, is going to be a transfer of moneys that would be appropriated to the court into a GSA fund that is maintained by GSA. It does not lapse from year to year. So it will be an expense, but it's also an intragovernmental agency transfer of funds.

PERSONNEL

Another area I would like to touch on very briefly is personnel. We have asked for almost $4 million in personnel expenses. That reflects the salaries for the 7 judges and their staff in their chambers, and also about 71 full-time equivalents which would be in the clerk's office and would do the work of the court.

We also estimate almost another $1 million for benefits that would be attendant to the salaries that we're requesting for the court's personnel.

TRAVEL

Another area, Mr. Chairman, is travel that is in the court's budget. The statute authorizes the court to sit anywhere in the United States to hear cases. Presently, the judges have no real idea what the demand will be as far as if cases should be heard outside of Washington, DC, and, if so, where and how frequently. But when the judges do travel, it will be at the same rate as article III judges, circuit court judges, who travel to hear cases in panels, and we've patterned our travel request after the recommendations of the Administrative Office of the U.S. Courts as far as the structure and fiscal limitations, and we plan to follow the Administrative Office's recommendations.

Also included in the travel budget is funding for new judges in the court to attend continuing legal education for appellate judges. The Chief Judge has been active with the Appellate Judges Conference of the United States for quite a while, and it's the only continuing legal education for appellate judges in the country. It's part of the ABA and the Chief Judge's plan is for new judges to attend that conference fairly early on in their tenure after being appointed to the court before any backlog can build up and also to give them the maximum benefit from that training.

Finally, in the travel request, moneys have been included for judges to travel to familiarize the veterans community with the basic functions of the court.

EQUIPMENT, FURNISHINGS, AND SECURITY

The last category I would like to address is the equipment, furnishings, and security category primarily because the anticipated expense for security is considerable. Judge Nebeker's oft-stated concern is that the court not be the weakest link in the chain of security in the Federal judiciary.

Therefore, pursuant to statute, we have contacted the Marshals Service and we presently have two court security officers under contract in our present space, and we anticipate that we may need more than two when we move to permanent quarters because of the additional floors and square footage that we will be taking up.

We do have the 12-hour shift of coverage for the judges and the court staff. We also have cameras and monitors that have been installed for security purposes. We will need more cameras again for the permanent quarters and also x-ray equipment is something that we're looking at securing for the significant mailings that come to the court. We do get a very high volume of mail and correspondence that comes in on a daily basis.

In conclusion, Mr. Chairman, I believe I have highlighted the specifics of the court's budget request.

In closing, now I would like to underscore what Chief Judge Nebeker has asked me to say, which is that he has requested and will request only the moneys that he feels the court needs, and not one dime and not one penny more.

The Chief Judge has made, and he will continue to make, the judgments as to the court's needs by what the court requires to produce better decisions and better opinions at a rate that is consistent with the administration of justice.

If, Mr. Chairman, you have any questions that you would like me or other members here to address, we would be happy to do so now or in writing later if the Chairman prefers.

[The statement follows:]

STATEMENT OF HON. FRANK Q. NEBEKER, CHIEF JUDGE, U.S. COURT OF VETERANS APPEALS

Mr. Chairman and members of the subcommittee, on behalf of the Court, I appreciate the invitation to appear before you today to present for your consideration the fiscal year 1991 budget for the United States Court of Veterans Appeals. As with the fiscal year 1990 budget, which I dealt with as Chief Judge-designate, the Court is still somewhat tentative as to the actual demands of its docket. The Court, as yet, has not gone through a complete budget cycle, accompanied by an established caseload, and only just recently completed its first three months in operation. Nonetheless, the Court has followed the organizational structure recommended by the Administrative Office of the United States Courts, and we continue to find our personnel, facilities, and equipment needs to be consistent with those commonly found in other United States courts.

At this time, it would appear that there is no excess in the fiscal year 1990 budget appropriation. I am mindful of the fact that I must revisit this issue on or before July 1, 1990, to determine any funding, not to exceed $1,000,000, found to be in excess of the needs of the Court. However, with the Court expected to attain its full complement of judicial officers around the middle of the fiscal year, and the legislative requirement that the Court fund its judicial retirement system, as well as move to permanent quarters, little or no surplus is expected in the Court's fiscal year 1990 appropriation.

In considering the Court's fiscal year 1991 budget request, I would appreciate the Subcommittee's special consideration of the facilities needs of the Court. The rental space that the Court currently occupies is, at best, a sanctuary of last resort. My staff and I have been working with the General Services Administration toward obtaining better, more suitable facilities, and we remain mindful of the statutory requirement that any such space be located in the District of Columbia, and that it provide for the Court's expansion needs. In consideration of the facilities needs of the Court, the Court has no choice but to include in its budget request the estimated costs associated with the build-out and facilities modification requirements for the Court's permanent space ($1,200,000), provide for the estimated expenses associated with moving the Court facility, and the estimated expenses associated with purchasing necessary additional furnishings and equipment to support the new Court. In addition, acquisition of library resources, and word and data processing systems resources will be necessary.

When General Services Administration (GSA) personnel first estimated the costs associated with the rental of the Court's permanent quarters, they indicated that the Court's rental expenses would be $1,200,000. This figure was included in the Court's fiscal year 1991 budget request, and represented GSA's best estimate of the rental expenses the Court would incur based on GSA's expertise in dealing with rental properties for other Federal courts and agencies.

Since this original estimate was made, GSA has had to revise its figures as it enters the final stages of completing the negotiations for the rental of the Court's permanent quarters. GSA's new estimates for the rental of the Court's permanent quarters totals $1,800,000, which includes both the Court's rental costs and related GSA charges (the latter being a transfer from the Court's appropriation to a fund maintained by GSA). The Court respectfully requests that the Subcommittee approve an additional $600,000 over the Court's original fiscal year 1991 request to cover the additional facilities related costs the Court will incur for its permanent quarters in fiscal year 1991. Should these additional funds not be approved, the Court will have to reduce its service staffing level to absorb the additional facilities costs, thus reducing the quality of services it provides to the veterans community.

Considering the newness of the Court's process and the paucity of experience since the convocation of the Court on October 16, 1989, and the fact that the Court's Interim General Rules were not effective until December 18, 1989, I am not prepared to conclude that the original estimates by the Department of Veterans Affairs as to the average annual number of cases the Court will handle are misstated. Accordingly, the growth plans for the Court's staff remain a primary objective.

The Court is finding it increasingly difficult to employ qualified specialists in the personnel, computer, and budget fields at or near the job entry pay levels. Because the Court's initial and continuing program needs are so great, the Court is not staffed to indulge in an on-the-job training exercise in these specialized fields. Lacking mentors for entry level staff, the Court must attract more experienced personnel to function efficiently, and must be prepared to pay the price for attracting and retaining experienced staff in its leadership positions. Therefore, I have included in the fiscal year 1991 appropriations request a funding level of $4,861,000 for the Court's personnel related needs. Of this figure, $3,894,000 is requested to fund personnel compensation (about $1,000,000 of which must be devoted to the compensation of the Court's judges); $942,000 is requested to fund related benefits; and $25,000 is requested to fund the costs related to operating a required employee incentive awards program.

In considering the Court's personnel-related obligations, I would like the members of the Subcommittee to be aware that the Court's request includes $319,000 to fund the expenses related to providing for the cost-of-living adjustments for fiscal year 1991. This figure includes a salary increase legislated in the amount of 25 percent of the Court's judges' respective salary rates (as last in effect before the increase) This adjustment is to be made effective in the first pay period beginning on or after January 1, 1991. It also includes the recommended 3.5 percent cost-of-living adjustment to be provided for nonjudicial staff in the first pay period beginning on or after January 1, 1991.

Additionally, the Court understands that the President previously recommended to Congress that it should delete the provisions of section 509 of the VA, HUD, and independent agencies 1990 appropriations bill. Further, the President continued this recommendation for these agencies in the 1991 appropriations bill. The Court has not explicitly requested the continuation of the exemption from section 509 for the Court's 1991 appropriations request because of the President's recommendation. However, should Congress determine that the provisions of section 509 should not be deleted from the VA, HUD, and independent agencies 1991 appropriations bill, the Court respectfully requests that the provisions of section 509 be suspended for application to the Court's appropriation in fiscal year 1991. This request is based on the difficulty and uncertainty of estimating the Court's personnel compensation and benefits costs, its responsibility to fund the Court of Veterans Appeals retirement system and its facilities and equipment needs one fiscal year in the future, after only three months of operation.

In conclusion, I appreciate the opportunity to appear before the Subcommittee to speak regarding the resource needs of the Court, as it continues the work begun by Congress of providing judicial review of the claims of our country's veterans. The nation should be grateful Congress and the President have given the Court the opportunity to provide veterans their first opportunity for judicial review. It is both a challenge and an honor to be a part of forming the United States Court of Veterans Appeals. I am happy to answer any questions the Subcommittee may have regarding the Court's appropriation, here if possible or by subsequent communications.

BIOGRAPHICAL SKETCH

EDUCATION

J.D., American University Law School,Washington, D.C., 1955.

B.S., (Political Science) University of Utah, Salt Lake City, Utah, 1953.

A.A. (History) Weber College, Ogden, Utah, 1950.

PROFESSIONAL EXPERIENCE

Chief Judge, U.S. Court of Veterans Appeals. July 1989-present.

Director, Office of Government Ethics. December 1987-October 1989.

Associate Judge, District of Columbia Court of Appeals. Appointed 1969. Reappointed April 1979. Retired 1987.

Assistant United States Attorney, District of Columbia, 1958-1969 (criminal & civil trial). (Chief of the Appellate Division, 1962-1969; administered a staff of fifteen attorneys and seven support people.)

Trial Attorney, U.S. Department of Justice, Internal Security Division, Espionage and Sabotage Unit, 1956-1958.

Correspondence Secretary, Executive Office of the President, The Social Office, The White House, 1953-1956.

BAR MEMBERSHIP

District of Columbia Bar, 1956. U.S. Court of Military Appeals, 1956. U.S. Court of Appeals, Second Circuit, 1962. Supreme Court of the United States.

ADDITIONAL ACTIVITIES

Consultant to the National Commission on the Reform of Federal Criminal Laws, 1968.

Member of the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia, 1967-1968.

A founder and member of Faculty Advisory Committee for Judges' Graduate Program in Judicial Process, University of Virginia, 1980-present.

Past Chairman of the Appellate Judges' Conference, American Bar Association.

Member, Council of the Judicial Administration Division, American Bar Association.

Co-Chairman and regular faculty member of the Committee for Continuing Education of the Appellate Judges' Conference, Seminar Series. Five to six appellate judges' seminars per year, plus appellate central staff and law clerk seminars, 1972 - present.

Past-Chairman and present member of the Appellate Advocacy Committee of the Appellate Judges' Conference. Developed new method for teaching appellate advocacy in law schools and C.L.E. Programs. Planned and participated in presenting four national Appellate Advocacy Institutes.

Member of the Law and National Security Advisory Committee of the Standing Committee on Law and National Security of the American Bar Association.

Planned and participated in numerous continuing legal education programs for judges of the Courts of Appeals of the armed forces.

TEACHING

The George Washington University Law School -- Trial Practice, 1971.

Adjunct Professor, American University Law School -- Criminal Procedure, 1967-1970.

Adjunct Professor, American University Law School -- Appellate Procedure, 1970 - 1985.

Georgetown University School of Law -- Guest Lecturer.

PUBLICATIONS

The Judge Needs a Lawyer, Catholic University Law Review, Vol. 29, 1980, No. 4.

Hints for the Court-Appointed Lawyer in Appellate Cases, D.C. Bar Journal, September-October, 1967.

Plans, Programs and Persuasions, The Judges' Journal, ABA, Vol. 19, No. 4, Fall 1980.

About a Friend, The Judges' Journal, ABA, Vol. 20, No. 2, Spring 1981.

Court Management Symposium, The Judges' Journal, ABA, Vol. 20, No.3, Summer 1981.

An International Education, The Judges' Journal, ABA, Vol. 210, No. 1, Winter 1981.

APPROPRIATIONS REQUEST

Senator KERREY. Well, first of all, how is your baby?

Ms. DORSEY. Well, she is only 17 days old, Senator. Thank you for asking. She is across the hall and presently is quiet as I understand it.

Senator KERREY. You can bring her in here. That wouldn't bother us. [Laughter.]

Ms. DORSEY. You're very kind. Thank you.

Senator KERREY. I'm not always. [Laughter.]

Let me just pass to you a document that is a fiscal estimate, a budget estimate of another title I court. I know you had some difficulties because you're a startup agency and it's a pretty good format that you might consider and give to Judge Nebeker as a guide.

Ms. DORSEY. Thank you, Senator.

Senator KERREY. In addition, just an administrative point, but it's a fairly important one, and it's probably administrative/political. Though the authorizing committee does authorize expenditure, it is the Appropriations Committee that makes the expenditure.

So the contact that you've had with the authorizing committee about office space, and all that sort of thing, should not be seen as a substitute for contact with Chairwoman Mikulski, because what happens is that we end up without a sufficient amount of information about what is going on and feel as if we are not able, as a consequence of that, to make judgments in oversight because we are the ones that have to be prepared to comment and defend the appropriation.

So again, it's a for your information more than anything else.

Ms. DORSEY. We appreciate that, Senator. Thank you.

Senator KERREY. There are a number of prepared questions that I would just submit to you for answering at your convenience.

COURT CASELOAD AND DEMAND FOR COURT SERVICES

Let me talk about this court a bit and what you're doing. I appreciate Judge Nebeker saying that he's not going to request one more dollar than he absolutely needs.

However, I would observe, and I'm not asking, by the way, for the judge to request any additional money, but I would observe that there is a lot of pent up demand out there for this court's services. I mean it's being created and you're starting up in 1990, and I don't know how far back you go before you get veterans that are completely satisfied, but I haven't gone back far enough yet to find an absence of a situation that calls for adjudication of some kind.

So it seems to me that you are going to face an unusual situation here of a very, very high demand immediately for adjudication decisions. Can you just comment on that? I mean are you prepared to do triage, or are you prepared to do some sort of ranking, or are you going to take it on a first-come first-serve basis?

Ms. **Dorsey**. Senator, I may address your question briefly and then perhaps Judges Kramer or Farley may also want to comment.

The court does have a central legal staff and a head of that central legal staff, and part of the court's plan is to triage, as you say, to screen cases as they first come in and put those that are suitable to be put on a faster track and a quicker docket, and have those cases disposed of as quickly as possible to try to have as little backlog as possible.

The Department of Veterans Affairs has estimated the court's caseload will be about 5,000 cases for the first year. We have no reason, right now, to dispute that estimate. We have, since the rules were promulgated on December 18, 1989, definitely been inundated with cases, and we would agree with the Senator's assessment that there well will be a significant caseload, and the court's plans are to screen cases as completely as possible when they first come in and to get those out that can be out as quickly as possible, and to put the resources where the really tough cases are to be.

Senator **Kerrey**. There will be 535 people who believe that they have a case more suitable than the ones you've selected. [Laughter.]

It would be very helpful, I think, for us as one of the 535 to have some sort of simple, and I urge the consideration of the word "simple" literally, some sort of simple statement of how you will make a determination of what is suitable for an early adjudication and what sort of thinking goes through the court's mind as you determine what is going to be taken first.

I just think it's going to be extremely helpful. I know it's going to be very difficult to do, but it would be helpful for all of us because I suspect that every single Representative has a caseload of people who are going to be going to CVA for adjudication of disputes.

Have you thought that through at all, at this point, or begun to prepare any kind of written statement that would guide us as we're dealing with constituents who are going to be saying, "Why wasn't mine suitable for an early adjudication?"

Ms. **Dorsey**. Right now, Senator, we have issued close to 400 procedural orders and show-cause orders to let potential appellants know where there are problems with their cases or how we're going to move them along. We have certainly gotten congressional inquiries.

[The information follows:]

Generally, cases will be screened by the Court's central legal staff with a view to determining which cases are of sufficient complexity to warrant full briefing, oral argument, and published opinion. Of the remainder, the judges will determine which cases lend themselves to summary disposition. It is still not possible to know how many summary type cases will be presented to the Court. A summary case will be identified by its relative simplicity of facts and issues and by the degree to which it is controlled by precedent and without novel questions requiring an opinion. Of course, independent of this summary calendar, either party may seek expedited treatment of cases warranting it. The central legal staff will also hold pre-briefing conferences (in person or by telephone) to identify cases with common issues, to limit issues to whose with merit, and to determine if a case should be expedited.

If the Court orders expedited consideration in a case, Interim General Rule 47 of the Court prescribes an abbreviated time period for briefs to be served and filed. Moreover, by statute, some of these cases can be decided by a single judge of the Court rather than a panel of judges.

Initially, the screening process has identified a significant number of cases which do not meet the Court's jurisdictional requisites as prescribed by statute; in these cases the veteran or representative is ordered to show cause why the case should not be dismissed for lack of jurisdiction. If the veteran has paid the $50.00 filing fee and the appeal is dismissed on jurisdictional grounds, the Court's policy is to return the filing fee.

CASE SCREENING

Ms. DORSEY. To date the biggest screening mechanism right now is a determination as to whether the court would have jurisdiction over a case that is trying to be brought before it, and the enabling statute has a cutoff date for the notice of disagreement being filed on or after November 18, 1988.

I would say that the biggest screening device right now is to make sure that the cases where the court would not have jurisdiction are not left in the pipeline and continue to take up resources, and those where the court could have jurisdiction are brought to the forefront and proceed along the pace of the appellate process.

JURISDICTION

Senator KERREY. What kind of disputes would the court not have jurisdiction over?

Ms. DORSEY. Those where the notice of disagreement was filed prior to November 18, 1988, for one. By the enabling statute, the court does not have jurisdiction when the notice of disagreement was filed prior to that date.

Senator KERREY. The notice of disagreement, this is only for disagreements that occurred after the 18th or disagreements that are filed?

Ms. DORSEY. A disagreement with the regional office. After the regional office of the VA has rendered a decision, the claimant then files a notice of disagreement with the regional office, and it is that date, when that document was filed, that the statute has made pivotal as to whether the court will have jurisdiction over the case.

Senator KERREY. Let me give you a specific example, just so we can kind of open this thing up a little bit, if you don't mind, in a personal way.

I've got an individual who is in dispute with the VA and has been for 20 years over a payment of a benefit for a bilateral above-the-elbow amputee, and I assume, though it seems relatively unique, and it is relatively unique, that every Representative will have similar sorts of specific cases. The injury occurred some 20 years ago and the dispute has been around for at least 10 years.

Does this individual have to have filed prior to the November 18, 1988, in order to be——

Ms. DORSEY. It's actually on or after November 18, 1988, a notice of disagreement with the regional office, and this person may or may not have done so. It depends on what posture his case is in. If he has gone to the Board of Veterans' Appeals more than one time, and I assume with a 20-year history he has gone up certainly prior to November 1988, but if he has gone back and forth between the VA and the regional office and he has had occasion to file a notice of disagreement with the regional office after that November 18, 1988, cutoff, then all other things being all right, the court would have jurisdiction.

Senator KERREY. But he has to go through BVA before he can come to the Court of Veterans Appeals?

Ms. DORSEY. Yes; the court hears appeals from the BVA final decisions.

Senator KERREY. So let's say this individual could make an appeal to the Veterans Administration now even on a dispute that has been settled previously?

Ms. DORSEY. That has happened; yes.

Senator KERREY. Could somebody say I want to present now for the umpteenth time to the Veterans Administration a case, go through BVA and then end up with the Court of Veterans Appeals?

Ms. DORSEY. Well, Mr. Chairman, the BVA has standards as to whether there is new and material evidence that is being submitted. If the claim is simply a rehashing of what has previously been decided, the BVA, and I don't want to speak for them, but, likely would not entertain it. If there is new and material evidence, then the matter is much more likely to be reopened.

Senator KERREY. How would you rationalize the November 18, 1988, cutoff if you were me trying to explain it to a disabled veteran who feels like he has been given a bum deal by the VA for 20 years?

Ms. DORSEY. I think you have a difficult job, Senator. I get an awful lot of hate mail myself in that regard. What I have tried to explain to potential claimants is that Congress had to pick a date or otherwise there would be such a backlog from the very beginning that the court would never see the light of day, and what happened was the Congress picked the date of enactment of the statute and the creation of the court and, yes, it was a tough draw, but that is a determination that Congress made, and that is what the court is doing by following the date of enactment and only from November 18, 1988, onward taking those cases where a notice of disagreement has been filed on or after that date.

Senator KERREY. Essentially what you're saying is since I was elected in November 1988, and not sworn in until January, I can blame it on my predecessor, is that the idea? [Laughter.]

Ms. DORSEY. I wouldn't want to say that, Mr. Chairman.

STATUTORY LIMITATIONS

Senator KERREY. I mean are we going to arrive at a point where the caseload levels off and the possibility might be there to advance that date backwards? I mean is that something that you see being possible? I suspect that the bulk of the disputes are going to be prior to November 18, 1988.

Ms. DORSEY. It's hard to say right now, Senator, there are an awful lot. We get from the BVA the number of cases that are eligible for Court of Veterans Appeals review, and it's a phenomenal number. I believe the last time I looked it was in excess of 11,000 cases just this year.

Senator KERREY. That they are currently saying to you that are eligible for review by the Court of Veterans Appeals?

Ms. DORSEY. Yes, Mr. Chairman. But I would defer to Judge Kramer and Judge Farley if they have thoughts on expansion of the court's jurisdiction.

Judge KRAMER. I don't want to comment in particular on the policy aspects of what is desirable or what is not desirable, but I would like to accept your invitation to comment on the problem as I see it.

There is, as Ms. Dorsey has pointed out, I think a lot of expectations out there that are probably going to be unfulfilled because of the statutory mandate that we've been given.

I personally have done some investigation of the legislative history surrounding that date and have really not been able to come up with what I consider to be a satisfactory conclusion as to why that date was instituted. There are really two theories I guess that you could operate under.

One, that it was used as a case management device, in other words, in order to phase in cases so that we wouldn't be overwhelmed in the first instance or, second, because it was felt by the Congress that we didn't want to, as a policy matter, open up cases that were dating back to World War II, and that we wanted to only provide this judicial review in essence prospectively rather than retroactively.

As to the first comment I made, you have to look at really why the court was created in the first place: to provide judicial review and an opportunity to be heard judicially where that never has been permitted before except under special circumstances.

If that is the expectation it will not be met unless the court takes unique recognition of the fact that the VA system is somewhat different in that it is a never-ending system, whereas courts traditionally deal with finality.

Under VA practices as they have existed, as I understand them, in the past and continue to exist at present, there is no such thing as a terminated final ultimately resolved case. The veteran is always free to go back and ask for a reconsideration of some sort either based on new and material evidence or, in some cases, by showing that there was error made in his original decision.

That leaves open the possible procedural opportunity to, in effect, get a new disagreement date that would be subsequent to

November 18, 1988. How the court might handle those, if and when that kind of situation arises, I guess is something that we couldn't really tell you today because it would be a decision of the judges based on the facts of that particular case.

So ultimately the November 18, 1988, date may prove to be an ultimate bar to these kinds of cases that you've mentioned or these people may, if they choose to do so, avail themselves of the opportunities of the never-ending VA decision process and go back and, in effect, try to have their case reheard on some basis. Even if there is a refusal of the VA to recognize any really significantly new facts that can be used to arrive at a different result, ultimately, they can still disagree with what the VA has done by refusing to, in effect, take cognizance of the reopened case and get to the court.

Now whether the court will then throw open the entire matter for review, or just look at the question of whether the VA correctly decided the reopening issue, I guess remains to be seen. But it is a complex problem and it is one that has given us a few fitful moments, and I suspect will continue to do so in the future.

MISSION OF CVA

Judge **Farley**. Senator, there is another question along the same line that you may find the veterans in Nebraska coming to you about and seeking to explain.

One of the things in the budget is for travel, but there is an interesting aspect to travel. We have found a need to address the tremendous misconceptions that exist in the veterans community as to what this court is.

The general sense is that it's Perry Mason and Matlock and we'll be able to put the witnesses on the witness stand and convince the court where the Department of Veterans Affairs was wrong. That probably stems, one, from television but, two, from the years that led up to this court and the service groups describing the court and always in the sense of being able to take testimony and evidence and hear witnesses.

In point of fact, what Congress created was not a trial court but an appellate court, and it's a traditional appellate court in the sense of Federal appellate courts. The statute expressly says the standard for reviewing facts found by the VA is the clearly erroneous test, which means, by and large, very few finding of fact will be overturned.

We do review law without a clearly erroneous standard, but this is a guess, not many cases are going to involve law.

Yesterday I spoke to the AmVets here in town, and we have spoken to national service officers. We're going around to State organizations and we spoke to all the State directors of veterans affairs pointing out what this court is not, and as that sinks into the veterans community, you may well get some questions on that. It's an appellate court and not a trial court.

Senator **Kerrey**. I am somewhat familiar with some of the history of it. The originating idea was if a veteran says I want the right to take my dispute to court, period. We don't need to create a new court. I just want to be able, if I have a dispute with the Veterans

Administration and I can file suit against them in district court in Nebraska, for a determination of whether I'm right or they're right. I mean that was the original object.

The Veterans Administration and some of the other veterans organizations resisted that; the Veterans Administration for obvious reasons and some of the veterans organizations for not so obvious reasons, and it seems to me that the creation of the title I court is a kind of compromise.

It's going to be interesting to see what some of the veterans organizations who resisted the right to sue all these years now say about the title I court.

COURT STAFFING

When do you expect to have all seven judges onboard?

Ms. **Dorsey**. Presently, Mr. Chairman, three judges are onboard and have been since——

Senator **Kerrey**. There are four associates?

Ms. **Dorsey**. No; excuse me, there will be six associate judges in addition to Chief Judge Nebeker. Mr. Mankin and General Holdaway have been nominated and have had the hearings held, but have not been confirmed yet. Then there is the sixth judge, Mr. Ivers, who has been nominated, and then the seventh is a vacancy that no nomination has been made for the seventh judge.

DISADVANTAGE OF PRO SE FILINGS

Senator **Kerrey**. Have you begun to hear cases?

Ms. **Dorsey**. Yes; the court already has heard cases.

Judge **Farley**. We had one hearing, and it was not the appeal of a BVA decision. It was addressed to the All Writs Act. We were urged to issue a writ of mandamus to the Secretary to decide a claim that had been pending for over 10 years.

Senator **Kerrey**. A single veteran's claim?

Judge **Farley**. A single claim.

We filed an opinion on that about 3 weeks ago.

Senator **Kerrey**. You have 11,000 sitting out there from the BVA that are eligible?

Judge **Farley**. Eligible, that's correct. There 380-some-odd cases that have been filed to date.

Senator **Kerrey**. Who files them?

Judge **Farley**. That's another concern we have. To date, 60 percent, 229 have been pro se.

Senator **Kerrey**. My Latin is limited to pharmacy. [Laughter.]

Judge **Farley**. By the veteran himself without any kind of representation either by a lawyer or by a service organization.

Senator **Kerrey**. I assume since you know pro se that you're a lawyer?

Judge **Farley**. I was a lawyer.

Senator **Kerrey**. So do you consider that to be a negative or a positive that 60 percent of them are filed pro se?

Judge **Farley**. I consider that negative, because, in the words of a judge in Alexandria, VA, last year in a veterans case, but unrelated, as he described it, the system of claims adjudication is really a paternalistic nonadversarial system all the way up through the Board of Veterans' Appeals.

Once you go into court, the gloves come off. The same people that were working with the veteran on the claim are now lawyers on the other side of the case, and the VA is represented. It's an adversarial system in a court, and here you have the BVA represented by lawyers and a veteran by himself without representation. That's the most crucial part of the process. That does concern me.

Senator **KERREY**. Is there an appeal of your decisions?

Judge **FARLEY**. To the court of Appeals of the Federal circuit and then the Supreme Court. So we are not final. So I see that as another potential problem.

Senator **KERREY**. Is it a potential problem that a veteran, in order to be able to go to CVA, that they essentially are still sort of held hostage by the Veterans Administration itself, or do you see them being held hostage, a consequence of having to go through the BVA, in order to get to the CVA?

Judge **FARLEY**. I don't see them as being held hostage. I see this is an open avenue. Judge Kramer and I took a fascinating tour of veterans facilities at the end of January from coast to coast, and the court has already had an impact on the way the Department of Veterans Affairs does business in terms that there now have to be detailed explanations for decisions. The form letters are out; they are no good any more.

So the veterans are going to get, I think, a better and more articulate and a clearer basis for decisions, and I think that is going to be a good process.

APPEAL PROCESS

Senator **KERREY**. But I can't just come to the CVA without having gone to the BVA first?

Judge **FARLEY**. No, sir; our jurisdiction is appellate jurisdiction limited by statute and only appeals from the Board of Veterans' Appeals, unless they come through this extraordinary relief.

Senator **KERREY**. But apparently there is some mechanism by which I can revisit an old claim, but again that is controlled by the Veterans Administration. They make a determination, as I understand what you're saying, they make a determination of the circumstances under which I can refile a previous claim.

Judge **KRAMER**. You can always refile, but their standards for favorable consideration will be very high.

Senator **KERREY**. The standards are developed by the Veterans Administration for being able to refile. So essentially the party with which I am in dispute controls one of the key circumstances under which I am able to appeal.

Judge **FARLEY**. Some of it is statutorily controlled.

Senator **KERREY**. Statutory or otherwise, I mean, I'm in dispute with the Veterans Administration and they control a fairly key aspect, do they not, of my capacity to be able to appeal?

Judge **FARLEY**. Yes; but I think we may be a player in that, as the jurisprudence of the court builds up, as Judge Kramer was indicating that notice of disagreement date. Statutes conveying jurisdiction on a court are usually subject to strict construction and you don't want to prejudge it. But that November 18 date is pretty strong, and the question is how is the court going to work with that.

Senator **Kerrey**. I would appreciate very much your evaluation of precisely that; how is the court going to work with that November 18 date. I mean I understand it's going to be difficult for you, but I think that is going to be a very, very important question and one that is going to recur. It's not going to go away, and we'll probably have it 5 years from now just like we've got it today, but I suspect that Congress is going to have to revisit it.

Judge **Farley**. Depending on the jurisprudence that comes out of the court, you may well be right.

[The information follows:]

The Court's jurisdiction to review appeals is expressly limited by statute to cases in which the veteran filed a written Notice of Disagreement on or after November 18, 1988. This jurisdictional limitation is found in section 402 of Public Law 100-687. A Notice of Disagreement is defined in section 19.118 of Title 38 of the Code of Federal Regulations as:

"A written communication from a claimant or the representative expressing dissatisfaction or disagreement with an adjudicative determination of an agency of original jurisdiction (the Veterans Administration regional office, medical center or clinic which notified the claimant of the action taken). . . ."

This definition was in effect at the time Congress enacted Section 402 and chose the Notice of Disagreement date as the critical stage. It is significant that the Senate proposal, focusing on a date of decision by the Board of Veterans' Appeals, was rejected in favor of the House proposal to use the Notice of Disagreement date. For regular appeals, the Notice of Disagreement must precede and result in a final decision by the Board of Veterans' Appeals. Otherwise, the claim is not ripe for appeal to the Court, because section 4066 of title 38, United States Code, provides for appeals from final orders or decisions of the Board.

CASE EXAMPLES

Senator **Kerrey**. Give me an idea of what is a legitimate case that might end up in the CVA. I assume a dispute over disability.

Ms. **Dorsey**. That is far and away the bulk of the cases that we are seeing.

Senator **Kerrey**. So the Veterans Administration says you're 40-percent disabled. We make a determination that you're 40-percent disabled and the veteran says, "No, I'm 60 percent," and that's going to be a large percentage of the appeals coming into CVA?

Ms. **Dorsey**. Yes.

Senator **Kerrey**. Do you have any idea what percentage that is?

Ms. **Dorsey**. We are starting to keep statistics now. I would say it's probably at least 80 percent, if not more.

TORT CLAIMS

Senator **Kerrey**. Can I bring a wrongful outcome in a Veterans Administration hospital?

Judge **Farley**. That would be a tort suit, and you would have to do that against the United States under the Federal Tort Claims Act.

Senator **Kerrey**. So you're not going to hear tort claims.

Judge **Farley**. I don't believe so.

Senator **Kerrey**. You don't believe so?

Judge **Farley**. I can't see how.

Judge **Kramer**. I think there is an alternative remedy. I think, for example, if as a consequence of a hospital stay the veteran claimed that he was entitled to additional compensation if his injury had been aggravated or he had gotten a new injury as a consequence of care, he could, in effect, claim a higher level of disability. That kind of a case could get to us. A claim for outright damages probably would not get to us.

Senator **Kerrey**. But it's possible.

Judge **Kramer**. It's probably very unlikely at least on the issue of damages.

Senator **Kerrey**. But I hear you leaving the door open as a possibility. Again, when you use the word "probably" there is some uncertainty in your answer.

Judge **Kramer**. Probably not. [Laughter.]

You know, each case is so unique and comes up under its own individual set of facts that it's very hard to set a blanket rule because there are some very ingenious fact situations that can develop that you may not have envisioned.

Senator **Kerrey**. I would appreciate your evaluation of that, because I personally would want to be very careful if it's at all possible to avoid tort claims through CVA. I mean, I think you would be immediately overwhelmed.

Judge **Kramer**. I think the only ones that I can envision are the ones that I suggested whereby, in effect, as a consequence of alleged malpractice or something akin to that, the condition of the veteran was aggravated or a new condition that might be service connected was, in effect, inflicted as a consequence of which he may be entitled to additional compensation under the traditional compensation and pension statutes.

A claim for damages would not be cognizable as far as I can tell.

Senator **Kerrey**. I would appreciate an evaluation of that. I mean, for example, can I appeal a negative decision on the part of the Veterans Administration to admit me to a Veterans Administration hospital?

Judge **Kramer**. Now that presents a different issue than the one as a consequence of damages. Now traditionally——

Senator **Kerrey**. Except that it could be the same and I could say, for example, I applied for admission to the Veterans Administration Hospital in Lincoln, NE. I was turned down. As a consequence of that, I got sicker, and, as a consequence of that, I suffered this pain and suffering and, therefore, I've got a claim to file.

Judge **Kramer**. I think, as long as it was done in the context of the compensation system, we would probably have jurisdiction. If it was done outside the context, in other words, a court suit, if it was done outside the context of the compensation regime, I do not think we would have jurisdiction.

Senator **Kerrey**. I guess the thing that I think is very important is early on to make sure, if we have enabling legislation that created an area of litigation that we didn't intend to create, that we make certain, if that becomes an issue, that we deal with it early on, because once you've started, and if you begin to hear and you set a precedent that you're going to hear a tort claim, you could be off to the races forever. I mean it would be very difficult.

Judge **Kramer**. We will provide something for the record. Like I said, as far as I can tell, the tort claim itself would not be cognizable in our court, but consequences as they related to the compensation system very well might be.

Senator **Kerrey**. But what I hear essentially you're saying is ultimately it's going to be eight men and one woman up the street that is going to make that determination, and, in the end, if I bring a tort claim to the CVA and you say, "No, we won't hear it," I can appeal it. If it goes to the Supreme Court and they look at our language that we've created, the enabling language for the Court of Veterans Appeals, and they say, "No, sir; you're wrong, you will hear tort claims," then we're going to be off to the races.

I mean again I'm not asking this followup for the purpose of expecting an answer, but I think it would be an important jurisdictional issue early. Frankly, I was not a part of the debate in 1988. So I don't know what the intent of the Congress was, but I guess I would be very surprised if they intended the CVA to be a tort claim court.

I genuinely think the potential exists for a veteran who is denied entry to a Veterans Administration hospital, say, for example, to bring a case; and we are denying a lot of veterans right now who feel that they have a right to go in. I mean we've got a lot of case work that is being done on that issue.

[The information follows:]

There is a likelihood that the enabling legislation has created an unintended area of jurisdiction for the Court to hear tort claims. The Federal Tort Claims Act gives the district courts exclusive jurisdiction over tort claims against the United States. While we cannot forecast every theory advanced by an imaginative litigant, the statute establishing the Court of Veterans' Appeals clearly conferred exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Board has neither considered tort claims nor found that it had the power to do so. However, the provisions of 38 U.S.C. 351 do permit the pressing of a claim of injury resulting from treatment at a veteran's facility as an alternative to Federal Tort Claims relief.

APPEALS OF DVA BENEFITS DECISIONS

Senator **Kerrey**. One additional question on that. As you understand it, can a veteran bring a claim if, for example, they have been denied services of any kind, prosthetic services of any kind?

Ms. **Dorsey**. We did have a case, Mr. Chairman, that the court has already heard and issued an opinion on, of a claimant in Texas whose fee basis card for a VA facility was revoked. He wrote to the court and asked the court on an emergency basis to order the VA to give him his fee basis card back. The court's opinion, which has already been issued, held that the claimant had to exhaust his administrative remedies first. He had the remedy of appealing to the director of the VA facility, then going to the BVA, and then coming to the court. The court let him know this, and said that it was not appropriate, that he was jumping the gun, as it were, to come to the court prematurely.

Senator **Kerrey**. One of the standards of jurisprudence is the right to a speedy hearing on this thing. Does the Veterans Administration's procedures, or have you evaluated the Veterans Administration's procedures to determine whether or not a speedy determination occurs?

I mean as you just described in this particular situation, I have to appeal to the director of the hospital. Can that individual make a determination in a year, you know I'll get back to you with a determination, and then I have to go to BVA and appeal. I mean have you gone through that kind of analysis?

Ms. **Dorsey**. I don't know the answers to those questions.

Senator **Kerrey**. Would you for me, please?

Ms. **Dorsey**. Yes, sir.

Judge **Farley**. I can give you one answer to that in a broad sense, Senator. In the first case we had, where the issue was a 10-year delay, we collected a number of cases in our opinion where courts have said 5 years is too little and five years is too much, and we didn't answer. We said 10 years was unacceptably and undeniably a long period of time. As to how long can they be, 1 year or 2 months, no, and I doubt the court would be setting those standards. It would really probably be the VA or BVA.

[The information follows:]

In addition to its powers to affirm, modify, or reverse a decision of the Board of Veterans' Appeals, the Court has the power to compel agency action unlawfully withheld or unreasonably delayed. In aid of its authority, the Court has the power to contempt for disobedience or resistance to its lawful writ, process, order, rule, decree, or command. The exercise of these powers will be considered on a case-by-case basis as circumstances warrant. Attached is a copy of the Court's opinion in a recent case involving the issue of delay in processing a claim.

UNITED STATES COURT OF VETERANS APPEALS

No. 89-14

U.S. COURT OF VETERANS APPEALS
FILED
FEB 23 1990
Clerk

JEAN A. ERSPAMER, PETITIONER

v.

EDWARD J. DERWINSKI, Secretary of
Veterans Affairs, et al., RESPONDENTS,

On Petitioner's Request for Writ of
Mandamus, Prohibition or Certiorari

(Argued February 7, 1990 Decided February 23, 1990)

G. Brian Busey and Tamar R. Schwartz, for Petitioner Jean A. Erspamer.

Raoul L. Carroll and Pamela L. Wood, for Respondent Secretary of Veterans Affairs.

Before NEBEKER, Chief Judge, KRAMER and FARLEY, Associate Judges.

Opinion for the court filed by Associate Judge FARLEY.

FARLEY, Associate Judge: As the decade of the 1970's was ending, Ernest G. Erspamer sought disability compensation from the Veterans Administration (VA), claiming that the leukemia he was suffering from was service-connected. Now, as the decade of the 1990's begins, Mr. Erspamer's claim and that of his widow, petitioner herein, have yet to be resolved by the Department of Veterans Affairs (DVA), the successor to the VA. Urging that this delay of over ten years has been unreasonable, petitioner asks that this court compel action on the claims by exercising jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), and issuing an extraordinary writ to the appropriate official or officials of the DVA.

In response, the DVA takes the position that this court lacks the jurisdiction necessary to issue the extraordinary relief requested by petitioner. We disagree. For the reasons set forth below, we hold that this court has jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), to entertain petitioner's request. We further hold that the facts and circumstances presented by petitioner, and not disputed by respondent, present the type of situation which would warrant the granting of extraordinary relief. However, based upon the written and oral representations of counsel for respondent that the situation will soon be resolved, we decline petitioner's invitation to grant the requested relief at this time but will retain jurisdiction of this case pending future order of the court.

I.

On April 14, 1947, Ernest G. Erspamer filed an initial claim for disability compensation stemming from his exposure to ionizing radiation while serving as hydrographic survey officer on the USS BOWDITCH during Operation Crossroads at the Bikini Atolls from August 1946 through September 1946. The claim was denied by the VA on October 7, 1947, with the statement that service connection of the "residuals of Exposure to Radio Activity [sic] as claimed by you was not shown by the evidence of record." Verified Petition at 3.

Having been diagnosed as suffering from chronic myelogenous leukemia, the claimant reopened his claim for service-connected benefits by a letter to the VA Regional Office in St. Paul, Minnesota, dated June 25, 1979. Additional exposure to ionizing radiation is also claimed to have resulted from February 16, 1963, to March 2, 1963, and from February 29, 1964, to March 13, 1964, at the United States Army Chemical School, Fort McClellan, Alabama. Mr. Erspamer died on December 13, 1980, and shortly thereafter, petitioner herself submitted a claim for service-connected death benefits and continued to pursue her husband's original claim for accrued disability benefits. The St. Paul Regional Office denied the claims on May 19, 1981. On June 12, 1981, petitioner filed a Notice of Disagreement and subsequently perfected her appeal to the Board of Veterans Appeals (BVA).

Petitioner's first appeal was heard by a traveling section of the BVA in San Francisco, California, on February 26, 1982. On August 29, 1982, the BVA denied the appeal. On April 27, 1983, petitioner moved for reconsideration of the claim. On March 1, 1984, a traveling BVA section heard petitioner's motion for reconsideration as well as her alternative request to reopen the claim due to new and material evidence. On November 15, 1984, the BVA remanded petitioner's claim to the Regional Office in San Francisco, California, with instructions that all available evidence of exposure be gathered and that an independent expert conduct a dose reconstruction of the radiation to which the veteran was exposed.

On September 6, 1986, without having arranged for the mandated independent dose reconstruction or gathered all of the requested evidence, the Regional Office issued a supplemental statement of the case. On October 26, 1986, the petitioner's claim was resubmitted to the BVA.

On April 29, 1987, the BVA issued the second remand order and again directed that the Regional Office hire an independent expert to reconstruct the dose of ionizing radiation to which the veteran was exposed. In addition, the second remand order prescribed specific action to be taken with respect to the gathering of the records of the veteran's exposure at Fort McClellan and how this information should be processed in the VA. The BVA specifically stated that "the case should be forwarded to the Chief Benefits Director for referral to an independent expert, selected by the Director of the National Institutes of Health . . . ." BVA Decision April 29, 1987, at 7 (Exhibit B of Verified Petition). Upon completion of the independent review, "the Chief Benefits Director should review the case . . . . The case should then be reconsidered by personnel of the [Regional Office]." Id. at 8. Noting that petitioner's claim had been pending "for such a prolonged period of time," the BVA's second remand order requested that the steps be taken as "expeditiously as possible" and it further directed that petitioner be advised of each development as it occurs. Id. at 5.

Almost three years have passed since the second remand by the BVA. Petitioner has not been advised of any progress, despite over thirty letters to the VA requesting action. On December 11, 1989, petitioner sought a writ from this court directing compliance with the second BVA remand within sixty days, ordering that the DVA pay a reasonable fee to an independent expert, prohibiting the DVA from preventing the independent expert from contacting petitioner, and an award of attorneys' fees and costs. The case was fully briefed and oral argument, the first before this court, was held on February 7, 1990.

II.

The threshold question for this court to determine is whether it has jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), to grant the extraordinary relief requested by petitioner. The All Writs Act provides that

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S.C. § 1651(a).

The United States Court of Veterans Appeals is a "court[] established by Act of Congress." Section 4051 of the Veterans Judicial Review Act of 1988 (VJRA), Pub. L. 100-687, Title III, Sec. 301, 102 Stat. 4113, provides that "[t]here is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Veterans Appeals." Article I courts are empowered to exercise jurisdiction under the All Writs Act. See, e.g., Noyd v. Bond, 395

U.S. 683, 695 n.7, 89 S.Ct. 1876, 1883, 23 L.Ed.2d 631 (1969) (United States Court of Military Appeals); United States v. Frischholz, 16 C.M.A. 150, 36 C.M.R. 306 (1966) (United States Court of Military Appeals); Alberta Gas Chemicals, Inc. v. United States, 496 F. Supp. 1332, 1335-36 (Cust. Ct. 1980) (United States Customs Court, which, in 1980, became the United States Court of International Trade); Yaeger v. Greene, 502 A.2d 980, 983 (D.C. 1985) (District of Columbia Court of Appeals); Margolis v. Banner, 599 F.2d 435 (C.C.P.A. 1979) (United States Court of Customs and Patent Appeals, which, in 1982, became the United States Court of Appeals for the Federal Circuit).

Congress specifically provided that this court would "have such assistance in carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States." 38 U.S.C.A. § 4065(b) (West Supp. 1989). Moreover, it is clear that Congress intended that this court have and, in appropriate instances, use jurisdiction under the All Writs Act. Senator Alan Cranston, Chairman of the Senate Committee on Veterans' Affairs, in his summary of the House and Senate compromise agreement, which was submitted in lieu of a conference committee report, stated:

> [O]ne of the powers that this new article I court, like any other U.S. court, would have is the power to issue whatever writs are necessary to conduct its business. Section 1651 of title 28, United States Code, provides:
>
> > The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.
>
> I would expect the court to utilize this power when it [is] . . . necessary for it to do so in order for justice to prevail.

134 CONG. REC. S16648 (daily ed. October 18, 1988) (statement of Sen. Cranston). Similar remarks endorsing this court's All Writ Act authority were made by Representative Don Edwards during the debate in the House of Representatives over the VJRA. 134 CONG. REC. H10359 (daily ed. October 19, 1988) (statement of Rep. Edwards).

Despite the confirmation of the authority of this court to exercise All Writs Act jurisdiction by the terms of the All Writs Act itself, the plain language and legislative history of the VJRA, and the case law on Article I courts, respondent nevertheless takes the position that such jurisdiction is lacking. Without benefit of citation to any relevant authority, respondent argues that it cannot be the subject of the All Writs Act jurisdiction of this court because the DVA is an executive agency, not an inferior judicial tribunal. We disagree. The authority for the issuance of extraordinary writs by "[t]he Supreme Court and all courts established by Act of Congress" to officials of administrative and executive agencies has been firmly entrenched in American jurisprudence from its earliest days. See, Marbury v. Madison, 5 U.S. (1 Cranch) 137, 2 L.Ed. 60 (1803); Kendall v. United States, 37 U.S. (12 Pet.) 524, 9 L.Ed. 1181 (1838).

The All Writs Act provides that courts may issue writs "in aid of their respective jurisdictions." This plain language does not limit the issuance of such writs to inferior courts. As Judge Edwards has noted, "[t]he authority of an appellate court to issue mandamus to an agency is analogous to its authority to issue the writ to District Courts." Telecommunications Research and Action Center, et al.,("TRAC") v. FCC, 750 F.2d 70, 76 n.28 (D.C. Cir. 1984) (citing Association of National Advertisers v. FTC, 627 F.2d 1151, 1179 (D.C. Cir. 1979), cert. denied, 447 U.S. 921, 100 S.Ct. 3011, 65 L.Ed.2d 1113 (1980) (Leventhal, J., concurring)).

Congress vested exclusive jurisdiction over the review of BVA decisions in this court. See, 38 U.S.C.A. § 4052(a) (West Supp. 1989); 38 U.S.C. § 211. Furthermore, as noted above, Congress emphasized in statutory form and in legislative history that this court has jurisdiction to issue extraordinary writs under the All Writs Act. In so doing, Congress was well aware that the All Writs Act jurisdiction of this court, if exercised at all, would be directed to officials of the DVA rather than to a judicial tribunal. In a subsequent amendment to the VJRA, Congress specifically provided that the appellate jurisdiction of this court would be extended to include compulsion of action "unreasonably delayed" by the Secretary. 38 U.S.C.A. § 4061(a) (West Supp. 1989) as amended by The Veterans' Benefits Amendments of 1989, Pub. L. 101-237, 103 Stat. 2062. In addition to being contrary to established law, a decision that this court lacked jurisdiction to issue extraordinary writs to officials of the DVA merely because the DVA was an executive agency would frustrate the letter and the spirit of the VJRA. Moreover, such a decision would frustrate the Congressional desire for judicial review where, as is alleged here, the inadvertent or intentional failure of the DVA to act prevents a claimant from ever attaining a BVA decision which would be subject to review.

We hold, therefore, that this court has jurisdiction to issue extraordinary writs to officials of the DVA. However, in so doing, this court recognizes that the circumstances that would justify the issuance of such a writ must be compelling. As Judge, now Justice, Kennedy has observed:

> The preemptory writ of mandamus has traditionally been used in federal courts to review nonfinal district court orders and is used only in exceptional circumstances. (citations omitted). Use of the All Writs Act in connection with agency matters has been even more rare and the scope of relief granted in these cases has been narrow. (citations omitted). The circumstances that will justify our interference with nonfinal agency action must be truly extraordinary, for this court's supervisory province as to agencies is not as direct as our supervisory authority over trial courts. (citations omitted).

Public Utility Commissioner of Oregon v. Bonneville Power Administration, 767 F.2d 622, 630 (9th Cir. 1985).

Respondent also argues that we lack All Writs Act jurisdiction over this case because the appellate jurisdiction of this court extends only to claims in which the Notice of Disagreement was filed on or after November 18, 1988. VJRA, Sec. 402. Since petitioner's Notice of Disagreement was filed on June 12, 1981, respondent argues, this court, lacking appellate jurisdiction over the claims, also lacks All Writs Act jurisdiction. Again, we must disagree. Respondent reads the All Writs Act and the term "jurisdiction" too narrowly; the substantial body of case law supports a broader interpretation.

It is true that the All Writs Act only empowers a court to act "in aid of [its] . . . jurisdiction[]," 28 U.S.C. § 1651(a), and the Act cannot be used to expand the statutory jurisdiction of a court. See, 9 J. Moore, B. Ward & J. Lucas, Moore's Federal Practice, ¶ 100.26 (2d ed. 1948 & Supp. 1989). However, All Writs Act jurisdiction extends beyond pending cases; it embraces the prospective and potential jurisdiction of a court as well. As the Supreme Court has held: "The exercise of this [All Writs Act] power . . . extends to the potential jurisdiction of the appellate court where an appeal is not then pending but may be later perfected." FTC v. Dean Foods Co., 384 U.S. 597, 603-604, 86 S.Ct. 1738, 1742-1743, 16 L.Ed.2d 802 (1966) (quoting Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 25, 63 S.Ct. 938, 941, 87 L.Ed. 1185 (1943)). See, In the Matter of a Letter From: Michael Quigley, No. 89-61 (U.S. Court of Veterans Appeals January 22, 1990).

All Writs Act jurisdiction is particularly applicable where, as here, an alleged refusal to act would forever frustrate the ability of a court to exercise its appellate jurisdiction. "The court clearly has the power to issue writs under the All Writs Act in aid of its prospective appellate jurisdiction in the face of action . . . that would frustrate such prospective appellate jurisdiction." Margolis v. Banner, 599 F.2d at 440-441. "There is no doubt that this court has present jurisdiction to hear claims concerning nonfinal agency action (or inaction) that might affect our future statutory review of final agency action." TRAC, 750 F.2d at 79.

The question, therefore, is whether, under the circumstances of this case, this court has jurisdiction to act in aid of its "prospective" or "potential" appellate jurisdiction. We conclude that we have such jurisdiction.

A continuation of the ten year delay in resolving petitioner's claim and the inadvertent or intentional failure to comply with the remand orders of the BVA could well serve to frustrate the potential or prospective appellate jurisdiction of this court. It is neither possible nor necessary to discuss every conceivable way in which this court might be called upon to consider this case in the exercise of its appellate jurisdiction. A few examples will suffice, although it must be noted that in raising possibilities, this court takes no position on their efficacy.

The trigger for a Notice of Disagreement is an adjudication decision. In this case, it was the May 19, 1981, denial of benefits which triggered the original Notice of Disagreement filed by petitioner. In view of the two BVA remands for the development of additional evidence, there is real potential that there will be a subsequent adjudication. Indeed, 38 U.S.C.A. § 3008 (West Supp. 1989) specifically provides that "[i]f new and material evidence is presented or secured with respect to a claim which has been disallowed, the [Secretary] shall reopen the claim and review the former disposition of the claim." Similarly, should it be determined that there was "clear and unmistakable error," 38 C.F.R. § 3.105 (1988), in the original adjudication, petitioner's claim could be reopened. In either event, a new adjudication decision might give rise to a new Notice of Disagreement over which this court could have appellate jurisdiction.

Moreover, as we are advised by counsel for respondent, it "happens a lot" that Regional Offices change adjudication decisions when claims are remanded by the BVA. Hearing of February 7, 1990, transcript at 73. If a claim were to be granted, of course, that would be the end of the matter. If however, benefits are denied or only partially granted, a new Notice of Disagreement might be filed, and, again, an appeal could be within the appellate jurisdiction of this court.

Petitioner could also file a new Notice of Disagreement based upon the original 1981 adjudication decision and attempt to pursue a second appeal before the termination of the adjudication process presently in progress. Although such a Notice of Disagreement might well be deemed to be jurisdictionally defective, this court would certainly have appellate jurisdiction to make such a determination, as counsel for respondent agreed during argument.

It is impossible for this court to predict what course petitioner's claim might follow in the future and there is nothing to be gained by engaging in such an exercise. For the resolution of the question at bar, it is sufficient to note only that the inadvertent or intentional administrative delay by the DVA directly and adversely effects the potential and prospective appellate jurisdiction of this court. We hold, therefore, that this court has jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), to entertain this petition in aid of its prospective appellate jurisdiction.

III.

It must next be determined whether the relief requested by petitioner is warranted in this case. Mindful that "[t]he remedy of mandamus is a drastic one, to be invoked only in extraordinary situations," Kerr v. United States District Court, 426 U.S. 394, 402, 96 S.Ct. 2119, 2123, 48 L.Ed.2d 725 (1976), we turn to the two-prong test for its application. Before a court may issue a writ of mandamus, petitioners must show: (1) that they are clearly entitled to the writ; and (2) they lack adequate alternative means to obtain the relief they seek.

Petitioner first has "the burden of showing that [her] right to issuance of the writ is 'clear and indisputable.'" Bankers Life & Casualty Co. v. Holland, 346 U.S. 379, 384, 74 S.Ct. 145, 148, 98 L.Ed. 106 (1953) (quoting United States v. Duell, 172 U.S. 576, 582, 19 S.Ct. 286, 287, 43 L.Ed. 559 (1899). Just over a century ago, the Supreme Court discussed the issue presented by petitioner:

> The court will not interfere by mandamus with the executive officers of the Government in the exercise of their ordinary official duties, even where those duties require an interpretation of the law, the court having no appellate power for that purpose; but when they refuse to act in a case at all. . . . a mandamus may be issued to compel them. (emphasis added).

United States v. Black, 128 U.S. 40, 48, 9 S.Ct. 12, 14, 32 L.Ed.

354 (1888). In Black, the Supreme Court affirmed the denial of the writ of mandamus because, unlike here, it concluded that the official "did not refuse to act or decide. He did act and decide." Id.

Petitioner does not seek to compel a specific type or character of a decision; she asks only that, after ten years, a decision be made.

> [C]laims of unreasonable delay fall within the narrow class of interlocutory appeals from agency action over which we appropriately should exercise our jurisdiction. By definition, a claim of unreasonable delay cannot await final agency action before judicial review, since it is the very lack of agency action which gives rise to the complaint. It is also obvious that the benefits of agency expertise and creation of a record will not be realized if the agency never takes action. In addition, judicial review of claims of unreasonable delay do not prematurely inject the courts into the agency's consideration of the merits of the issue before it. Finally, agencies operate under a mandate to decide matters in a reasonable time, (footnote omitted) and Congress has instructed statutory review courts to compel agency action which has been unreasonably delayed (footnote omitted).

Air Line Pilots Association, International, et al. ("ALPA") v. CAB, 750 F.2d 81, 85 (D.C. Cir. 1984); see also, TRAC, 750 F.2d at 79.

It remains to be determined whether the delay of over a decade in this case has been unreasonable. There is no standard of measurement or scale which can be used to make such a determination. In Silverman v. NLRB, 543 F.2d 428 (2d Cir. 1976), a panel of the Second Circuit held that a delay of five years was clearly unreasonable whereas a panel of the D.C. Circuit later ruled that a five year delay was "not so great as to justify" mandamus. In Re Monroe Communications Corp., 840 F.2d 942, 943 (D.C. Cir. 1988). Four years earlier, yet another panel of the D.C. Circuit had ruled that "a five year delay in adjudicating claims for a form of unemployment assistance payments would be difficult to justify under any set of circumstances." ALPA, 750 F.2d at 86 (emphasis in original). In this context, the D.C. Circuit has commented that:

> [D]elays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake; (citations omitted) . . . the

> court should also take into account the nature and extent of the interests prejudiced by delay, (citation omitted); and the court need not "find any impropriety lurking behind agency lassitude in order to hold that agency action is 'unreasonably delayed.'" (citation omitted).

TRAC, 750 F.2d at 80.

Claims for benefits due to military service clearly implicate human health and welfare concerns as distinguished from economic regulation. In consideration of the "nature and extent of the interests prejudiced by delay," we must reject the suggestion made by counsel for respondent at argument that any and all prejudice resulting from the decade's delay would be offset by retroactive payment should the DVA ultimately determine that benefits were warranted. Payment of benefits ten years after they were due could never serve as full compensation. Moreover, the interests resulting from delay here transcend those just of the petitioner. "Quite simply, excessive delay saps the public confidence in an agency's ability to discharge its responsibilities and creates uncertainty for the parties, who must incorporate the potential effect of possible agency decisionmaking into future plans." Potomac Electric Power Company v. ICC, 702 F.2d 1026, 1034 (D.C. Cir. 1983). Public confidence is particularly sapped where, as here, the delay results from the failure of one component of an agency to comply with the authorized mandate(s) of an office of the same agency speaking with the express authority of the head of the agency.

"While there is no absolute definition of what is reasonable time, we know that it may encompass 'months, occasionally a year or two, but not several years or a decade.'" Community Nutrition Institute v. Young, 773 F.2d 1356, 1361 (D.C. Cir. 1985) (quoting MCI Communications Corp. v. FCC, 627 F.2d 322, 340 (D.C. Cir. 1980). Based upon the facts presented by petitioner, and not disputed by respondent, we hold that there has been an unreasonable delay in the determination of petitioner's claims and in the compliance with the 1984 and 1987 remands of the BVA. Petitioner has carried "the burden of showing that [her] right to issuance of the writ is 'clear and indisputable.'" Bankers Life and Casualty Co. v. Holland, 346 U.S. at 384, 74 S.Ct. at 148 (quoting United States v. Duell, 172 U.S. 576, 582, 19 S.Ct. 286, 287, 43 L.Ed. 559 (1899)).

This showing, standing alone, is not enough. "To ensure that mandamus remains an extraordinary remedy, [the] petitioner[] must show that [she] lack[s] adequate alternative means to obtain the relief [she] seek[s]." Mallard v. United States District Court for the Southern District of Iowa, __ U.S. __, 109 S.Ct. 1814, 1822, 104 L.Ed.2d 318 (1989) (citing Kerr v. United States District Court, 426 U.S. at 402-403, 96 S.Ct. at 2123-2124); Allied Chemical Corp. v. Daiflon, Inc., 449 U.S. 33, 35, 101 S.Ct. 188, 190, 66 L.Ed.2d 193 (1980); In the Matter of a Letter From: Michael Quigley, No. 89-61 (U.S. Court of Veterans Appeals January 22, 1990).

The only avenue arguably still available to petitioner, the procedures for which do not appear in any DVA regulation or rule, would be a plea directly to the Secretary. At oral argument, the petitioner stated, and respondent conceded, that over the course of the five years that the remand orders have been pending, petitioner through counsel has written between 30 and 40 letters to the Regional Office. This fruitless effort serves to indicate that the petitioner has done all that she could to bring this matter to the attention of the DVA. Moreover, counsel for the respondent agreed during oral argument that this petition for relief in and of itself is enough to bring this matter to the attention of the Secretary and effectively serves, in this case, to exhaust that administrative remedy.

In view of the circumstances and the history of this case, requiring that the petitioner write directly to the Secretary of Veterans Affairs would be "tantamount to having petitioner[] do a useless act." Margolis v. Banner, 599 F.2d at 443. We hold, therefore, that petitioner has effectively exhausted any and all alternative means to obtain the relief she seeks.

Although petitioner appears to have satisfied the test for the relief sought, there are additional factors presented by this case which counsel hesitation. In the first place, there have been significant changes in the organization and structure of the agency since the second BVA remand of April 29, 1987. On March 15, 1989, the Veterans Administration was raised to Department status and the Administrator was elevated to Cabinet rank, becoming the Secretary of Veterans Affairs. 38 U.S.C.A. (West Supp. 1989) § 201, Pub. L. 100-527, 102 Stat. 2635. This Secretary has not had the opportunity, based upon the record before this court and statements at oral argument, to address the delays of the Regional Office in complying with the remand orders of the BVA.

In addition, we now have the assurance of counsel for respondent that "[t]he factual development required by [the] BVA is currently in progress." Respondent's Memorandum of Points and Authorities in Opposition to Petition and In Response to Petitioner's Supplemental Memorandum at 7. Moreover, counsel has assured the court during argument that "now that we are aware of this case and the delays that are taking place, I think I can safely say that we will do what we can to expedite the process." Hearing of February 7, 1990, transcript at 60. Indeed, counsel for respondent suggested that this court defer action for six months, noting that "[t]he process may well be . . . complete by then." Id. at 66.

Ten years is an undeniably, and unacceptably, long time to have passed since the petitioner's husband first filed the claim for benefits with the VA. The delays have benefited neither the parties nor the public and they cannot be permitted to continue. The petitioner has the right to a decision on her claim. However, based upon the representations of counsel for respondent and in recognition of the truly extraordinary nature of the relief requested, this court will refrain from granting the relief at this time but will retain jurisdiction of the case pending future order of the court. Petitioner may renew her request in six months if respondent is unable to adhere to the timetable suggested by its counsel. See, In Re Monroe Communications Corp, 840 F.2d at 943; TRAC, 750 F.2d at 81.

IV.

One technical issue remains. A decision by a single judge or a panel of this court in a case heard and determined in the exercise of our appellate jurisdiction, 38 U.S.C.A. § 4052 (West Supp. 1989), does not become "the decision of the Court" until thirty days have passed. 38 U.S.C.A. § 4067 (West Supp. 1989).

The instant case was heard not in the exercise of our appellate jurisdiction but pursuant to the All Writs Act, 28 U.S.C. § 1651(a), which does not provide for any waiting period or delay. Indeed, the nature of the jurisdiction exercised and the remedy sought by petitioner is such that a thirty day waiting period would frustrate the purposes of the extraordinary remedies contemplated by the All Writs Act. To impose an additional delay upon the administration of justice would be unfair and illogical.

We hold therefore that this decision, and all decisions of this court in the exercise of the jurisdiction conferred by the All Writs Act, are effective immediately and not subject to the 30 day delay imposed by 38 U.S.C.A. § 4067 (West Supp. 1989). Cf., Robinson v. United States, 272 F.2d 554 (D.C. Cir. 1959).

V.

In accordance with the foregoing opinion, we hold that this court has jurisdiction under the All Writs Act, 28 U.S.C. §1651(a), to consider this petition in aid of our potential or prospective jurisdiction. We hold further that the decade of delay by the Veterans Administration, and its successor, the Department of Veterans Affairs, in acting upon the claims submitted by petitioner and her husband has been unreasonable and that petitioner has exhausted all available alternative remedies. However, we decline to issue extraordinary relief at this time and deny the request for attorneys' fees and costs in view of to the representations of counsel for respondent that a resolution may be near. The court will retain jurisdiction pending future order of the court and petitioner may seek appropriate relief six months from the date of this decision if respondent is unable to adhere to timetable suggested by its counsel. This constitutes the decision of the court and is effective immediately.

It is so Ordered.

CLOSING REMARKS

Senator **Kerrey**. I would appreciate, since you're going to be coming to this committee for money, that you work with us to try to answer some of those questions, because it seems to me again with a new agency like this there are going to be a lot of them early.

One of things that we're going to have to do, it seems to me, is maintain some calm in between you and the constituent groups out there and the individuals out there who are going to be asking why they aren't able to get their claim settled faster, and all those sorts of questions that are clearly going to arise when you get the potential for 11,000 claims to be rolling through seven people in a fairly short period of time, and you just described that space is inadequate and all kinds of problems, I mean that it seems to me, could arise.

So I appreciate fairly consistent, and it could even be informal, communication with Chairman Mikulski so that this subcommittee is informed of any problems that you've got out there and any questions you can't answer.

Judge **Kramer**. I think you're very astute in your observations that a lot of the court's early issues are jurisdictional in nature, and just, you know, what is the nature of this court.

Senator **Kerrey**. You've just, in answering the questions, opened up a big question for me, which is, did Congress intend for this to be tort claims, because I think the potential is for it to become that.

I thank you for your testimony and wish you good luck. You're going to need it.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the court for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

CASELOAD

SENATOR MIKULSKI: What is the basis for your estimate of 5,000 cases in the first year and how many cases have been reviewed to date?

ANSWER: The Court based its estimate of 5,000 cases per year upon information provided by the Department of Veterans Affairs. The Congress seems to have relied on this estimate also. The Department also provided the Court with the estimate that 11,079 cases were ripe for appeal to the Court.

The Court commenced operations on October 16, 1989, and has been open for a little over five months. A true gauge of the number of cases the Court will receive, in any given year, will not be available until the Court has a year of experience in receiving case filings. The Court continues its efforts in maintaining an open line of communication with the Board of Veterans' Appeals regarding caseload, and is maintaining statistics on case filings before the Court.

Between October 16 (the date the Court held its convocation and opened to receive cases) and December 31, 1989, the Court received 184 case filings. Thus far in 1990, the Court has received 225 cases. The Court expects that case filings will increase as the veterans' community becomes aware of the Court's existence and their appeal rights. As of January 30, 1990, the Secretary is required by law to notify veterans denied benefits to the right and process of appeal.

SENATOR MIKULSKI: Is it realistic to assume that each judge will be able to handle 700 cases?

ANSWER: If all cases were of a medium degree of factual and legal complexity or greater, it would not be realistic to make that assumption. However, a significant number of cases maybe relatively simple and thus assigned to a single judge rather than a division of three. At this time, the Court does not have enough experience with its caseload to predict whether it is realistic to assume that each judge will be able to handle 700 cases. According to information available through the Administrative Office of the United States Courts, the average caseload per authorized United States circuit judgeship is 577, the average caseload per authorized United States district judgeship is 470, and the average caseload per authorized United States Bankruptcy judgeship is 2,900. In providing these statistics, the Court is not comparing its cases with those held before Federal circuit courts. The Court will need more time to assess the real impact of its caseload, which cannot occur until it has additional operational experience and is less reliant upon estimates regarding operational needs and the public demand for its services.

ASSOCIATE JUDGES

SENATOR MIKULSKI: Is your FY 91 budget estimate based on the assumption that all 7 judges will be confirmed by the beginning of that fiscal year?

ANSWER: Yes. Three of the Court's seven judges are confirmed. Two additional nominees to the Court's fourth and fifth associate judgeships (Mr. Hart Mankin and General Ronald Holdaway) have had their confirmation hearings and await a confirmation vote by the full Senate. The nomination for the Court's sixth judgeship (Mr. Donald Ivers) is pending before the Senate, and the nominee for the seventh judgeship remains to be named.

It was the Court's original understanding that its seven judgeships would be filled by February of 1990. The Court was later informed by congressional staffers that this was to be revised, and that Mr. Hart Mankin and General Ronald Holdaway were to be confirmed before the February recess. However, the nominations were not yet reported to the Senate. It might appear that the entire delay in filling the Court's four remaining judgeships might be resulting from the fact that the seventh nominee has not been named. The Court is playing no part in the nomination process and is unable to accurately gauge how soon Senate will complete the nomination and confirmation process.

OFFICE SPACE

SENATOR MIKULSKI: Why did GSA adjust your rental cost upwards by 50% from the original estimate?

ANSWER: It is the Court's understanding that the General Services Administration (GSA) originally had an independent appraisal conducted which estimated the Court's rental at $1,200,000. GSA advises that this appraisal was conducted at a time when the Court's requirements were not fully developed, and GSA was not fully aware of the Court's space requirements (chiefly courtroom related space needs). These requirements have contributed to the increase in rental expenses. In addition, GSA has advised that only one building owner bid on the lease proposal to provide space for the Court, and the building space under this consideration is in one of the most expensive rental areas of the District of Columbia. The GSA has indicated that the combination of the these factors is what has lead to the increased rental requirements of the Court.

SENATOR MIKULSKI: Is the administration going to propose a budget amendment; if not, what would be the effect of your having to absorb the costs of the rent increase?

ANSWER: The Office of Management and Budget (OMB) has forwarded the Court's request for the additional $600,000. Further, the Court understands that the proposal is in the form of a budget amendment.

Because the Court now needs to cover a total of $1,800,000 for its permanent building quarters, it will require an additional $600,000 in funding during fiscal year 1991. This additional funding will be an ongoing Court budgetary requirement. Should these additional funds not be approved, the Court will have to reduce its service staffing level to absorb the additional rental costs, thus reducing the quality and promptness of the services it provides.

CONSULTANTS

SENATOR MIKULSKI: Can you please elaborate on why you need $40,000 for consultants, how these funds will be spent and what type of services will be contracted out?

ANSWER: In drafting its Interim General Rules, the Court retained Alexander L. Stevas, Esquire, former Clerk of the United States Supreme Court and received invaluable assistance from him. In FY 1991, the Court expects to continue to consult with Mr. Stevas on the Court's rules, and the establishment of an admissions committee and to profit from his expertise in the appellate process.

The Court will require the services of an actuary both to examine the initial funding requirements for the retirement fund and to accomplish periodic reviews. It anticipates that these services will be required on an annual basis. Under 38 U.S.C. § 4098(e)(1), the Chief Judge may cause periodic examination of the United States Court of Veterans Appeals Retirement Fund.

The Court also will require certain computer software developmental services, including the implementation of an effective networking capability for the Clerk's Office and for judges' chambers. Roughly $1,000 has been spent on a consultant for this purpose in FY 90. Additional consultant services will be required upon moving to the permanent quarters.

We also anticipate production of a computer program that will provide retirement system comparisons for the Court's judges, similar to those that were provided to all government employees during the Federal Employees Retirement System open season a few years ago.

Additionally, GSA has advised the Court that it will require the services of a computer firm to analyze the Court's local area network (LAN) requirements regarding computer wiring and electrical needs in the Court's permanent quarters. The Court understands that this firm is required, under General Services Administration regulations, to make recommendations regarding the location of wiring conduit channels and outlet needs to link the Court's computers in a LAN. This firm is also to analyze electrical power requirements for the computer system.

The Court is studying the possibility of employing the services of a consultant to provide expertise in the area of telephone systems. It appears a significant cost savings to the Court may result from employing such a consultant. The Court is planning to use this type of service when it moves to its permanent location, expected to be in August of 1990. The Court also anticipates employing consultants to advise the Court on case management systems.

SENATOR MIKULSKI: Has a cost/benefit analysis been performed to determine whether it is indeed more efficient to contract-out such work rather than perform it in-house?

ANSWER: No cost/benefit analysis has been performed. However, with the exception of the need for actuarial services, the remainder of the contractual needs of the Court can be described best as one-time projects, or projects which will not be routinely required by the Court to conduct its normal business. All of the projects listed require expert services to produce a finished workable product. The Court would be ill advised to seek full time personnel for these one-time projects. With the large number of administrative and operational tasks which the Court's staff must undertake in 1990 and 1991 to initiate Court programs and services, the Court cannot devote large chunks of staff time to these one-time nonroutine projects.

While the Court has hired a computer specialist to manage its daily computer programming and operational systems needs, the Court anticipates that it will need to supplement, through contractual arrangements, this position's full-time work efforts in the areas of software development and hardware installation. Such supplemental efforts will occur infrequently; however, the Court anticipates a greater need for such support in fiscal years 1990 and 1991.

SENATOR MIKULSKI: Please provide a break-out of the $40,000 estimate.

ANSWER: The Court expended $7,400 in consulting services associated with the drafting of the Court's Interim General Rules and it expects to incur a similar expense for consulting services related to the promulgation of additional rules. The expenses to hire the services of an actuary in FY 1990 are estimated at $15,000. The approximate cost for computer software developmental services has been placed at $5,000 per year, although this expense may be somewhat higher in the Court's formative years. The computer software developmental services for the United States Court of

Veterans Appeals Retirement System have been estimated at $15,000 (an FY 1991 expense). The LAN contract to provide building space design for a LAN is estimated to cost between $50,000 and $80,000 (this is an FY 1990 expense). The expenses related to telephone consultant services are estimated at $5,000 per year, though this figure is expected to be less in later years. The case management consultant services are estimated at $5,000 in both FYs 1990 and 1991. The case management consultant services are not expected to be ongoing annual expenses.

SENATOR MIKULSKI: How much is being spent in FY 90 on consultants.

ANSWER: The Court plans to spend $50,000 to $80,000 on the LAN building requirements study, $15,000 on the Actuarial study, $1,500 to $2,000 on case management, and has spent $1,000 for initial computer software.

JUDGES' SALARIES

SENATOR MIKULSKI: CVA is anticipating legislation that will bring the salaries paid to the associate judges to the level paid to the chief judge. How much will this cost in FY 91 and when do you expect legislation?

ANSWER: The salary increase request is intended to bring the associate judges to the level of United States Circuit judges and Court of Military Appeals judges. Assuming the legislation authorizing the increase were passed today, the funding necessary to support the increase would total over $40,000, or roughly $7,000 per judge including benefits. When the 25 percent salary increase authorized by the Ethics in Government Act of 1989, Public Law 101-194, takes effect next January, the additional funding necessary to support the increase will cost approximately $190,000, or $32,000 per associate judge including benefits.

Since the founding of the Court, the Court has worked with the Members of Congress to make technical amendments to the Court's enabling legislation. Several technical amendments have been passed by Congress, and the Court greatly appreciates the efforts both Houses of Congress have made on the Court's behalf.

The anticipated legislation, that would bring the associate judges' salaries to the traditional parity level of that salary presently paid to Federal Appellate judges is a remaining technical amendment that the Court understands is to be addressed by Congress. The Court understood that the legislative amendment would emanate from Congress and thus cannot accurately predict when this legislation will be introduced.

SENATOR MIKULSKI: What would be the effect if you were required to absorb the costs of increased salaries?

ANSWER: If the Court is required to absorb the costs of the increased salaries, it would have to reduce its service staffing level. Such a reduction would have a negative effect on the services the Court offers. Please note that the cost of the increased salaries represents roughly the equivalent salaries (including benefits) of seven grade 8 positions.

ADMISSIONS COMMITTEE

SENATOR MIKULSKI: Please describe what purpose the Admissions Committee will serve and please provide a break-down of how these funds will be spent.

ANSWER: The Interim General Rules of the Court provide for attorneys to be admitted to the bar of the Court and for nonattorney practitioners to be admitted to practice before the Court. These representatives must meet standards of proficiency as prescribed under the Court's Interim General Rules, 38 U.S.C. § 4063(b). These standards are necessary to ensure that attorneys and nonattorneys are qualified to provide representation to claimants who appear before the Court, and that those persons who practice before the Court understand the nature, scope and standards of the Court's legislated judicial review function. To that end, the Court envisions creating and overseeing an Admissions Committee, similar to those found in other federal, state and the District of Columbia Court of Appeals.

The Admissions Committee will establish an application and examination process for those persons who desire admission to practice before the Court. It will be composed of five to seven members who will review applications from attorneys who wish admission to the bar of the Court and from nonattorneys who wish to serve as practitioners. The committee will make recommendations to the Court on admissions and serve as a liaison between the Court and those attorneys and practitioners. The committee may investigate the character, fitness and technical qualifications of those applying to practice before the Court. It may also assist the Court in training those admitted, and in the future, assist in disciplinary and reciprocal disciplinary proceedings.

The Court anticipates that the committee will operate on an actual expense basis. Members will serve on the committee on a pro bono basis. The Court expects that it will require one to one and one-half FTEEs to support the work of the Admissions Committee. Those positions will be used to: provide clerical support in receiving applications; process applications; perform preliminary clerical reviews of the applications to ensure Court standards are met; process the application fees; coordinate the issuance of certificates of admission; and provide any necessary clerical support to the Court and the committee.

38 U.S.C. § 4085(a) indicates that the United States Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before

the Court, and the amount of the fee may not exceed $30 per year. The Court imposes a $30 registration fee on persons applying for admission to practice before the Court. To date, the Court has received approximately 20 inquiries regarding admissions to practice, but only 3 payments of the registration fee.

38 U.S.C. § 4085(b) stipulates that the "Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court."

The Court has interpreted the provisions of § 4085(b)(2) to allow it to use the monies collected in registration fees for admissions to practice in order to support some of the initial expenses the Court will have in establishing the standards of proficiency for practice before the Court. However, while the second clause of § 4085(b) may permit the use of the fees for the admissions committee, the Court does not expect that the registration fees received will support the needs of the Admissions Committee adequately during its first year.

SENATOR MIKULSKI: How much of the $100,000 is attributable to start-up costs of the Admissions Committee?

ANSWER: The $100,000 figure represents the Court's estimate of the start-up costs for establishing the Admissions Committee. The Court will reassess the monies needed to support this program in the following fiscal years, since it expects a reduced funding need once the Committee has been established.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

FULL COMPLEMENT OF JUDGES

SENATOR GRASSLEY: I think you said in your statement that you expect the Court to attain its full complement of judicial officers by the middle of the fiscal year. I think it's safe to say that many of our veteran constituents are anxious to see the Court ready to assume a full case load. How confident are you that you will have the full complement by the middle of the fiscal year?

ANSWER: The Court is playing no part in the nomination process and is unable to accurately gauge how soon Senate will complete the nomination and confirmation process. Three of the Court's seven judges are confirmed. Two additional nominees to the Court's fourth and fifth associate judgeships (Mr. Hart Mankin and General Ronald Holdaway) have had their confirmation hearings and await a confirmation vote by the full Senate. The nomination for the Court's sixth judgeship (Mr. Donald Ivers) is pending before the Senate, and the nominee for the seventh judgeship remains to be named.

It was the Court's original understanding that its seven judgeships would be filled by February of 1990. The Court was later informed by congressional staffers that this was to be revised, and that Mr. Hart Mankin and General Ronald Holdaway were to be confirmed before the February recess. However, this has yet to take place. It might appear that the entire delay in filling the Court's four remaining judgeships might be resulting from the fact that the seventh nominee has not been named.

CASELOAD

SENATOR GRASSLEY: In your written statement, you noted that you were "not prepared to conclude that the original estimates by the Department of Veterans Affairs as to average annual number of cases the Court will handle are misstated". This seems to imply that the number of cases coming before the Court at this time are less than originally anticipated. Is this the case?

ANSWER: The United States Court of Veterans Appeals has adopted the caseload estimate provided by the Department of Veterans' Affairs. While the caseload of the Court in the first few months might lead to the conclusion that the Court's caseload will be less than originally estimated, we note that as of January 30th Congress required that the Department of Veterans' Affairs notify veterans of the process of appeal, 38 U.S.C. §3004. The Court has also taken steps to educate veterans of the need to obtain representation through veterans service organizations and bar associations in appealing cases before the Court. Until the Court has had additional time to function, we do not feel that a substantial deviation from the Department of Veterans' Affairs' original estimate is warranted.

The statement was merely intended to emphasize that the Court, given its newness (the Court has been open only since October 16, 1989), continues to have to rely on the original estimates of its potential caseload in considering its budgetary needs. The Court has not been through one complete budget cycle, nor has it completed one year of operation. The Court is not prepared to judge the accuracy of the original estimates at this stage in its development.

SENATOR GRASSLEY: What is the anticipated average case load and when do you expect the Court's case load to reach the neighborhood of that number of cases?

ANSWER: Based on the original estimate provided by the Department of Veterans Affairs, the Court expects that it will receive an estimated 5,000 cases this year. The Court is tracking its case load on a calendar year basis, and expects that it will reach this number of cases sometime near the end of the calendar year.

STAFFING

SENATOR GRASSLEY: I think you said in your statement that you would achieve the full complement of judicial officers around the middle of the fiscal year. What about other professional and support staff?

ANSWER: The hiring process will accelerate once the Court achieves its full compliment of judges. In the meantime the Court is hiring its professional and support staff based on its analysis of the level of administrative and operational needs of the Court. The Court expects to have the equivalent of 45 FTEE's in 1990 and 71 FTEE's in 1991. Fiscal year 1991 is when the Court expects to reach its full staffing level for professional and support staff.

SENATOR GRASSLEY: You noted that you are finding it increasingly difficult to employ qualified specialists in various fields at the entry levels. At what grade levels do you have to hire such professionals in order to attract qualified people? And would I be safe in assuming that the resulting professional staffing pattern of the Court will be "top heavy"? If so, would this then be the enduring staffing pattern, or will you be able at some point to achieve a more balanced pattern?

ANSWER: It is extremely important to the Court, as it is for any organization which is just forming, to obtain professional employees who possess a fully developed array of job related experiences required by a given discipline or field of work. The Court can ill afford to hire lower experienced applicants in a given professional discipline with the idea that it will provide on-the-job training, when the Court's initial organizational needs are so great, and when the Court lacks mentors to provide such training.

The Court is fixing and adjusting the basic rates of pay for its positions, as required under its enabling legislation (38 U.S.C., § 4081(d)), to the maximum extent feasible, at rates consistent with those for employees holding comparable positions in the judicial branch. Therefore, the Court is not grading its positions unusually, and is only communicating its need to attract the more experienced applicant for its specialized professional job opportunities. The difficulty is in employing qualified specialists with experience in specific job categories at or near job entry pay levels. This was one of the original management aims of the Court; however, experience has shown that the Court must hire an experienced person (an individual who is more likely to be paid in the higher grade levels of a given job category), rather than hire a college graduate with no work experience (an individual who is in the early stages of their career development and would be paid at the lower grade levels of the pay scale). If this staffing pattern is considered top heavy in hiring computer, personnel, and budgetary specialists, than the Court initially may be considered top heavy in these three job categories. However, this is not a pattern the Court intends to follow routinely, as it hopes to achieve a more balanced staffing program overall.

SUBCOMMITTEE RECESS

Senator **Kerrey**. The subcommittee will now stand in recess until Tuesday, March 27, at 10 a.m., when the subcommittee will receive testimony from the Consumer Products Safety Commission, the Consumer Information Center, and the Office of Consumer Affairs.

[Whereupon, at 12:10 p.m., Thursday, March 22, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

TUESDAY, MARCH 27, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington DC.

The subcommittee met at 11:05 a.m., in room S-126, the Capitol, Hon. Barbara Mikulski (chairman) presiding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

STATEMENT OF BONNIE GUITON, SPECIAL ADVISER TO THE PRESIDENT FOR CONSUMER AFFAIRS AND DIRECTOR, OFFICE OF CONSUMER AFFAIRS

ACCOMPANIED BY:

- ANDREW L. POAT, DEPUTY DIRECTOR
- E. WAVERLY LAND, DIRECTOR, PLANNING, BUDGET, AND EVALUATION

OPENING REMARKS OF SENATOR MIKULSKI

Senator **MIKULSKI**. The subcommittee will come to order.

Today, we'll review the fiscal year 1991 budget request for three very important consumer agencies under the committee's jurisdiction.

I know other Senators will be joining us, but what is going on at the Capitol right now is the Eisenhower commemoration. So if you do not see our colleagues, it isn't because of a lack of interest in you. They're at an official ceremony.

I believe that the agencies that we're going to talk about today are extremely important because they inform and protect the consumer. Since we can't regulate every product in the market place, and wouldn't want to, we need to make sure that consumers feel fully informed on what's out there so that we can make smart choices.

I want to review your agendas today and examine whether the budgets you're asking for will enable you to fulfill your important mission and the public purpose for which you were constituted in terms of this information and protection.

We're going to take our first testimony from the Office of Consumer Affairs, then the Consumer Information Center located in Colorado, and finally, last, but not least, the Consumer Product Safety Commission.

We're now going to have testimony from the U.S. Office of Consumer Affairs, and we're pleased that the President has appointed a new Director, Dr. Bonnie Guiton. This is her first time before this subcommittee, and I most sincerely want to welcome you, Doctor.

You were most recently an Assistant Secretary for Vocational Education at the Department of Education, and having held positions in Government, the private sector, and education, your background provides you with the perspective you need to serve as the President's Consumer Advisor.

You've got quite a tradition, I know, to live up to. We know that you're working for the Secretary of Health and Human Services, who has a strong commitment to people. I look forward to hearing your testimony supporting your budget request.

We're going to ask you to go right ahead, and we will turn to questions.

INTRODUCTION OF ASSOCIATES

Dr. GUITON. Thank you very much, Madam Chair.

I'm pleased to be joined by Andrew Poat, Deputy Director, and Waverly Land, Director of Planning, Budget and Evaluation.

You do have, I believe, my written statement. So in the interest of time, I'd like to summarize it.

Senator MIKULSKI. If you do, because they always say that, and then they go on for an hour and a half. [Laughter.]

I believe that you believe in truth in testimony.

Dr. GUITON. I do. It's probably 2 minutes, if that's all right.

Senator MIKULSKI. Sure. Go right ahead.

STATEMENT HIGHLIGHTED

Dr. GUITON. The President has filled key policy positions in the executive branch with individuals sensitive to the needs of the American consumer. I'm very proud to be a part of this team and to assist him in creating a market place that is safe, fair, and equitable.

In recognizing the need for representation of consumer interests in the development of domestic policy in general, the President has given me an operational role in the White House Office of Policy Development, rather than the Office of Public Liaison, to which this Office reported during the last 8 years.

THREE PRIMARY CONCERNS

The budget we've requested will allow us to play a critical part in assisting the President to respond to the needs of American consumers and we'll concentrate our efforts on three primary concerns.

The first is continuing consumer education for the public.

Second, addressing future concerns such as privacy of information and nutrition.

Third, outreach to minority populations.

CONSUMER EDUCATION

First, I'd just like to briefly address the area of consumer education.

Last year, alone, we funded distribution of well over 500,000 copies of USOCA publications to people who wrote in asking for them. We've now begun the distribution over 2 years of about 2 million copies of the fifth edition of the Consumer's Resource Handbook. It has been very popular and widely distributed and we're very pleased to continue the tradition that Virginia Knauer started.

However, we don't want to stay with just the issues that we've been traditionally identified with. A major new challenge to consumers is the issue of privacy in the marketplace, and I believe it will be a key issue of the 1990's.

Three other areas are food safety, nutrition labeling, and child-care options. These are areas where new challenges face consumers from the changes in technology and in society which are making old ways of doing things obsolete.

These new areas will not detract from our efforts in our ongoing successful programs, and we've been deeply involved with a number of topics that we'll continue working on. These include international marketplace issues, special needs communities, National Consumers Week, and fraudulent advertising.

Another priority for the office this year is to reach out to consumers with special needs—the elderly, those with disabilities, and minorities. We'll try to make our resources count by urging action at the community level.

Furthermore, in describing our outreach efforts, I would like to note for the record that we took special care with this edition of the Handbook to make it more readable to those consumers most hardest to reach. We looked at the literacy level for the important tips section. We tried to reduce it from the 16th grade level to about the eighth grade, which is the national literacy level standard.

In the coming year, we'll continue to demonstrate to business the importance of providing quality goods and services to consumers because we believe consumers are the bottom line and, therefore, should have the best.

National Consumers Week last year was a success and we're now working on 1990. Our theme is "1990—New Consumer Horizons."

In June 1991, we will have another consitutent resource exposition.

FIGHTING FRAUD

The last area I'd like to mention is the efforts of the U.S. Office of Consumer Affairs in fighting fraud perpetuated against the consumer. We are an active member of the Alliance Against Telemarketing Fraud which strives to educate the public on one of the most common forms of fraud and how consumers can protect themselves.

So, finally, I'd like to emphasize that we believe our request for the $1,889,000 and 22 FTE's in fiscal year 1991 will provide a level of program activity that you've said in the past is essential for the representation of the interests of consumers in the Federal executive branch.

Thank you for your concern and attention, and I'll do my best to answer any questions that you might have.

[The statement follows:]

STATEMENT OF BONNIE GUITON

Thank you, Madam chair, this is my first opportunity to appear before you and the members of this Subcommittee in my role as Special Adviser to the President for Consumer Affairs and Director of the U.S. Office of Consumer Affairs. I am pleased to be here to justify our fiscal year 1991 budget request to support our efforts at the Federal level to represent the interests of consumers in the marketplace.

The President has filled key policy positions in the Executive Branch with individuals sensitive to the needs of the American consumer. I am very proud to be part of this team and to assist the President in creating a marketplace that is safe, fair and equitable.

Recognizing the need for representation of consumer interests in the development of domestic policy generally, the President has given me an operational role in the Office of Policy Development rather than the Office of Public Liaison to which this office reported during the last 8 years. This gives me the opportunity to participate in the creation of Administration policy—as I have recently on the product liability issue.

The budget we have requested in 1991 will allow us to play a critical part in assisting the President to respond to the needs of American consumers in our increasingly complex marketplace. We will concentrate our efforts on three primary concerns: the first is continuing consumer education for the public; second, addressing future concerns such as privacy of information and nutrition; and third, outreach to minority populations.

Let me first address the area of consumer education. Last year alone we distributed well over 500,000 copies of OCA publications to people who wrote in asking for them. We now have begun distribution of the 2 million copies of the 5th edition of our popular Consumers Resource Handbook. We expect to have adequate copies available at the Consumer Information Center in Pueblo to meet public demand until the printing of the 6th edition in October, 1991. We estimated several years ago that the Handbook saves the Federal government $8 every time a misdirected consumer complaint is avoided, and we believe the savings are even greater today. Twenty Federal agencies contributed $758,000 to print this latest edition. In 1991, we are asking for $275,000 to distribute over 560,000 Handbooks and other publications of vital interest to consumers through the Consumer Information Center. In fact, over 40 percent of all materials distributed so far this year by the Consumer Information Center have been OCA publications. There is no question that the Handbook is the book most widely distributed by the Federal Government, after income tax instructions. And much more popular, I would guess.

However, we don't want to stay just with the issues with which OCA have been identified. A major new challenge to consumers is the issue of privacy in the marketplace. I believe it will be the issue of the 1990s. Rapidly advancing computer technology, with all its benefits, has also led to inadequate protection of personal information collected about consumers by the financial services, medical and other insurance, and telemarketing industries. Consumers have lost too much control over the collection and transfer of this information, and as a result they feel violated and unprotected from abuse. I have been invited to testify on Fair Credit Reporting Act reform initiatives and I have organized a working group on telecommunications privacy which includes consumers, public interest groups and representatives from the industry. Also I have discussed the general issue of privacy and the consumer in several recent speeches before industry groups and in a number of press interviews. A public discussion of these issues will help us all forge a consensus.

Three other areas where I believe the Office of Consumer Affairs should become more involved are food safety, nutrition labeling and child care options. These are areas where new challenges to the consumers from changes in technology and in society are making old ways of doing things obsolete.

These new areas will not detract from our efforts in OCA's ongoing, successful programs. In the past, we have been deeply involved in some important topics that will continue to be major areas of staff activity. These include: international market place issues; special needs communities; National Consumers Week; and fraudulent advertising.

I am interested especially in international developments as they affect consumers. Both the European Community and Eastern Europe are arenas where USOCA can share its expertise in consumer complaint handling and other topics. We have already been sought out by companies and governments for our assistance as a result of our landmark study on consumer complaint handling. Of course, many countries also have experience to share with us. For example, many of the European countries have a more systematic program of privacy protections in the public and private sectors than do we. My position as head of the U.S. delegation to the Organization for Economic Cooperation and Development's Committee on Consumer Policy is also an avenue for exchanging views with consumer policy makers in other countries. In 1990, this Committee will complete papers on the consumer related aspects of product liability, deregulation of financial services, and agriculture policies in the 24 OECD member countries.

Another priority for OCA is outreach to consumers with special needs—the elderly, those with disabilities, and minorities. We try to make our resources count by urging action at the community level. Last May, for example, along with the American Association of Retired Persons, the National Organization on Disability, and the Society of Consumer Affairs Professionals in Business, we cosponsored a seminar titled "Addressing the Consumer Problems and Concerns of America's Elderly and Disabled Citizens." Another example is the consumer education workshop we conducted at the National Caucus and Center on the Black Aged, highlighting the vulnerability of the elderly to fraud. In addition, I've addressed such groups as the Black Women's Political Action Forum, the National Urban League Guild, and the Black Family Reunion Celebration/Leadership Forum of the National Council of Negro Women on the critical importance of active minority participation in consumer issues.

Furthermore, in describing our outreach efforts I would like to note for the record that we took special care with this edition of the Handbook to make it more accessible to consumers with limited reading skills. As you know, these consumers often need the most assistance and are the hardest to reach.

In the coming year, the U.S. Office of Consumer Affairs will continue to be very active in demonstrating the importance of customer service to business. We will broaden our efforts to convince corporate executives of the significant competitive benefits to be realized by actively soliciting and resolving consumer problems. We will be aggressive in persuading and assisting both business and consumers to resolve problems without the need to resort to government involvement. In the past few years we have helped businesses to recognize and replicate the success of General Electric and other firms that now assure easy and prompt resolution of consumer complaints or inquiries, and which are realizing very substantial profits as a result. We have helped businesses see customer satisfaction as both a shortterm and a longterm profit center. This is good for business, for American competitiveness, and for consumers. I see this as one of the primary strengths of OCA and I intend to build on it.

National Consumers Week 1989 was again a success. Organizations across the country promoted our theme "Consumers Open Markets." We cannot even estimate how many millions of consumers are reached each year, thanks to generous private sector support. OCA staff members are now working on NCW 1990—our theme is "1990: New Consumer Horizons"—and already we are laying the ground work for 1991.

I am pleased to remind you also that in June of 1991 the Federal Consumer Affairs Council, which I chair and for which OCA provides administrative support, will be sponsoring another of our popular Constituent Resource Exnositions in the Caucus Room of the Cannon Building. We expect some 1,000 Congressional staff aides to meet with representatives of 40 Federal agencies. The primary objective is to improve handling of constituent inquiries and marketplace problems. We will distribute a guide for caseworkers called the Congressional Liaison Handbook which identifies staff in Executive agencies who handle specific complaints and inquiries, along with other publications to assist the members of your staffs to help your constituents.

The last area I want to bring to your attention is the effort the Office of Consumer Affairs expends in fighting fraud perpetuated against the consumer. We are an active member of the Alliance Against Telemarketing Fraud which strives to educate the public on the most common forms of fraud and how consumers can protect themselves against them. We contributed to a manual this organization is developing to identify characteristic fraud schemes and to list the organizations that oversee the laws regulating each form of fraud. In addition, our Direct Marketing Round tables have helped create informal networks of consumer and industry representatives to share information about current scams. Often it is the reputable businesses that are the first to know about shady operators and these reputable businesses can provide immeasurable help to local enforcement agencies.

I believe that both the breadth and quality of our programs will continue to improve. Yet the return on investment to the taxpayer is greater than ever, because our program for 1991 differs very little from past years in total cost to the Treasury. Our budget request in 1991 shows a very modest increase of $55,000, of which $49,000 will be applied to salaries and benefits to offset the mandated and proposed pay raises.

Finally, Madam Chair and members of the Committee, I would like to emphasize that our request for $1,889,000 and 22 FTEs in fiscal year 1991 will provide the level of program activities you have said in the past is essential for proper representation of the interests of consumers in the Federal Executive Branch. Thank you for your concern and attention. I will now do my best to answer any questions you may have.

BIOGRAPHICAL SKETCH

Dr. Bonnie Guiton was appointed by President Bush as his Special Adviser for Consumer Affairs and Director of the United States Office of Consumer Affairs on April 24, 1989.

Her role is best explained by the logo of the U.S. Office of Consumer Affairs: the joining of consumers, business, government, and educators, as equal partners, to address consumer problems and reach consensus on vital issues affecting consumers.

To help fulfill this role, Dr. Guiton participates in White House Office of Policy Development activities: chairs the Consumer Affairs Council, an organization of senior consumer officials from 41 Federal Agencies; and heads the U.S. delegation to the Committee on Consumer Policy of the Organization for Economic Cooperation and Development (OECD).

As Assistant Secretary for Vocational and Adult Education at the U.S. Department of Education, she successfully advanced the concept of basic skills in vocational-technical education. Her strong belief in partnerships, teamwork, and personal accountability aided her in this and many other accomplishments in both the private sector and public service.

Dr. Guiton's prior positions include Vice Chair of the U.S. Postal Rate Commission: Vice President with Kaiser Aluminum and Chemical Corporation; Executive Director of the Marcus A. Foster Education Institute; and Assistant Dean of Students and Lecturer at Mills College In California. She currently serves on the Board of Directors of the National Museum of Women in the Arts.

She is a recipient of the YWCA's TWIN award which honors women who have achieved major leadership roles in industry, the National Coalition of 100 Black Women's CANDACE award in Business, and the District of Columbia Distinguished Service Award.

She has a Bachelor's degree from Mills College, a master's degree from California State University at Hayward, and a doctorate in education from the University of California at Berkeley. Her dissertation analyzed a successful partnership between private industry and business educators.

Senator **MIKULSKI**. Thank you very much, Doctor.

First of all, your testimony was crisp and most appreciated.

I am particularly interested in the new areas that Dr. Sullivan has asked you to assume, the issue of food safety, nutrition, child care options, to mention those.

He has, of course, been in the press a great deal the last few weeks on the nutrition labeling, an area that I happen to think is very important.

Dr. **GUITON**. Certainly.

CONSUMER POLICY CHALLENGES

Senator MIKULSKI. Do you want to comment how, with these modest resources, that you'll be able to undertake that, as well as some of the other challenges that he's asked you to do. Will this be adequate?

My question is, tell us what you want to do in that area and then in terms of the overall responsibility—and I'd like for the record to show, I'm very pleased that Dr. Sullivan has moved you into policymaking because I know that you're going to be a voice, not only out to help the consumer, but actually the voice of the consumer in senior discussions.

Am I correct in that?

Dr. GUITON. Well, yes, for the most part. I might say that it was certainly the President who has moved me into the policymaking area. That's the way our Office functions. I get our program and policy directives from the President or the Chief of Staff of the White House.

I get administrative services only from Dr. Sullivan, but work very closely with him. He's invited me to attend the staff meetings there, and so we do have an excellent working relationship.

The President had added child care and education to the consumer agenda. The Department of Health and Human Services invited us to participate in the food labeling hearings last fall and I did participate with, at that time, Commissioner Frank Young.

A new project that we're doing this year that has never been done in terms of reaching out to minority communities and disadvantaged groups as well, is a National Consumers Week conference on minority consumer issues. It will be held at the White House in the Old Executive Office Building. We're inviting the leaders of all the various civil rights organizations across the board—the African-American, Hispanic, Asian—and Dr. Sullivan himself will keynote and kickoff that conference. The chairperson of the Federal Trade Commission and the Consumer Product Safety Commission will also be there to help address these issues.

Our approach is one of educating the minority community much more than they have been in the past toward their needs regarding certain consumer issues as they relate to health and safety and all of the issues that you have certainly been concerned about.

CORPORATE SPONSORS FOR CONSUMER'S RESOURCE HANDBOOK

Senator MIKULSKI. Thank you. That gives me a pretty good picture.

One of the things in your budget, we note that there's an OCA plan to get corporate sponsors for this excellent and revised Consumer's Resource Handbook.

As I understand, OCA is going to seek corporate sponsorship for the Consumer's Resource Handbook. My question to you is, Why do you think that we need to do this?

Dr. GUITON. Well, we found in this last year, getting the various agencies to contribute to the Consumer's Resource Handbook was more difficult.

Senator MIKULSKI. Like VA? HUD?

Dr. **Guiton**. VA, HUD, Education, the Department of Defense, the Postal Service, all of them who have contributed in the past.

Many did contribute and contributed at a lesser level. The Department of Defense told us that this was the last time that they would not be able to contribute to it because of budgetary constraints.

Senator **Mikulski**. I know. $300 billion doesn't go as far as it used to, Doctor. [Laughter.]

You've got to cut somewhere.

Dr. **Guiton**. Well, true. So, we feel that it's a very important document for the public and we've been asked by this committee before, or I believe by the House committee, to explore alternative sources of funding. So we have attempted that and will continue to try to do that.

CONTRIBUTIONS FROM FEDERAL AGENCIES

Senator **Mikulski**. First of all, know the point of my question, Doctor.

I think it's outrageous that other Federal agencies won't kick in. You can be sure that those agencies under my subcommittee's jurisdiction will have, if necessary, a line item for you.

Dr. **Guiton**. Thank you.

Senator **Mikulski**. That's No. 1. No. 2, I'm concerned about the independence of this. This was never meant to be a pay as you go. It was meant to be a resource. I know, for example, Doctor, many local TV stations are now running complaint programs. Some of this literature is very helpful to them, helping consumers and so on.

The demand is rising, whether it's airlines or whatever. How do you fight city hall without getting a lawyer is one of the tips that you give, or manufacturer warranties, and so on.

My question is, Do you feel and do you have data that essentially would say that if we go to the private sector, will this affect the independence of this? Which companies do you expect to contribute?

Dr. **Guiton**. Well, at the present time, we have no specific companies that we expect would contribute. We would look to those companies that would not see it as a commercial item, simply have a byline.

We find that right now, many organizations, some of them private sector organizations, do reproduce the information within the handbook and send it out to their constituents as well.

So it is being used in that regard and expanded on, and we find that very useful.

You're correct in terms of the media that uses this as a resource. We've talked with one consumer reporter who told us that his staff consults it more than 70,000 times per year. So it is important that it maintains that kind of noncommercial appearance.

CHARGING FOR CONSUMERS RESOURCE HANDBOOK

Senator **Mikulski**. Do you charge for this book, Doctor?

Dr. **Guiton**. We do not.

Senator MIKULSKI. First of all, we have confidence in you and we have confidence in what you're trying to do. I would wonder, as compared with you trying to solicit donations when your job has to be in this significant mission we've given you, a modest fee of $1, which is less than a pack of cigarettes.

Dr. GUITON. Sure.

Senator MIKULSKI. Now less than a ticket to a ballgame, and so on.

Dr. GUITON. Right.

Senator MIKULSKI. I wonder, though if it might dampen it, still, I really don't think you should be hawkers of your publication.

Dr. GUITON. We have considered that, yes.

Senator MIKULSKI. Am I on target?

Dr. GUITON. You're on target, absolutely. We have considered whether or not the public would respond as well if it were, in fact—it would cost $1, for example. The cost of publishing the handbook right now is about 40 cents a copy, and the cost of mailing it is about 45 cents. We mail it, as you know, through the Consumer Information Center.

Clearly, we could charge $1 for it, I'm sure. Waverly—we've discussed this and I don't know if you have anything to add to that.

We think it might initially dry up demand. One of the ways we use it is in conferences with various organizations and make it widely available. It's conceivable that we certainly could charge there as well.

We've explored probably all the alternatives.

Senator MIKULSKI. Well, a conference itself would pay you a block rate or something else like that.

Dr. GUITON. Sure.

Mr. LAND. We explored with the Consumer Information Center the possibility of putting it under their 50-cent program. However, since a copy weighs several ounces, it is too heavy for them to include as part of that program.

So perhaps $1 would be a good charge for that, and we will talk with CIC about that.

LIST OF CONTRIBUTING FEDERAL AGENCIES

Senator MIKULSKI. OK. Then we'll stay in touch on that issue.

The other thing is, again, to ensure your budget, if your fiscal team could tell you the agencies that are supposed to help pay their freight. If you could tell us their agency contributions for fiscal 1988, fiscal 1989, and fiscal 1990.

Dr. GUITON. Certainly. We'll provide you with that.

Senator MIKULSKI. Just give us the list.

[The information follows:]

CONSUMER RESOURCES HANDBOOK FUNDING SOURCES

The costs of printing[1] the fourth (printed in 1987) and fifth edition (printed in 1989) of the Consumers Resource Handbook and which agencies contributed is displayed below:

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[1] Excludes typesetting.

Agency	Funding provided	
	Fourth edition	Fifth edition
USOCA	$50,000	$50,000
Agriculture Department	30,000	50,000
Defense Department	175,000	200,000
Education Department	20,000	20,000
Energy Department	2,000	10,000
HHS	125,000	142,500
HUD	40,000	50,000
Interior Department	15,000	15,000
Justice Department	100,000	100,000
Transportation Department	60,000	
Labor Department	10,000	10,000
Veterans Affairs Department	10,000	10,000
CPSC	10,000	2,000
Federal Communications Commission	1,000	1,000
Federal Deposit Insurance	5,000	5,000
Federal Trade Commission	10,000	10,000
GSA	30,000	30,000
NCUA	8,000	7,500
Postal Rate Commission	1,000	500
Postal Service	85,000	25,000
Small Business Administration	15,000	20,000
Total	802,000	758,500

CHALLENGES FOR CONSUMER AFFAIRS

Senator MIKULSKI. Doctor, you have a big job ahead of you. We particularly like the additions you've added to your responsibility. I know that you've even got international work here.

If we can reach out to people who actually know how to help themselves, that we move into, again, food, nutrition and labeling, special outreach to the minority community, often the most exploited and the least resources, you know, at least confidence to know that there is some place to go, I think your mission will be an excellent one.

You're savvy in coming from vocational ed. You know how to be a teacher. That's what we're trying to do, teach the consumer how to help themselves.

ADDITIONAL COMMITTEE QUESTIONS

I like the word "tip," information you can use. That really concludes our testimony, and then we're going to have some questions for the record.

Is there anything else that you wanted to add?

Dr. GUITON. No; I'd just like to thank you for your support. I'm also delighted that you're such a fan of the Consumer's Resource Handbook.

Senator MIKULSKI. Absolutely. Let me shake your hand and wish you all the best.

Dr. GUITON. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Office for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

BUSH ADMINISTRATION

SENATOR MIKULSKI: As the principal spokesperson for consumer concerns in the Federal government, how would you characterize the differences in consumer policy between this administration and the last one?

ANSWER: The national consensus on the appropriate role of the government in the marketplace has consistently shifted--not just between this administration and the previous one, but for all past administrations. The Bush Administration's consumer agenda reflects the President's appeal for corporate responsibility, public-private partnership and cooperation, and effective governmental action when needed.

Reflecting the President's view that consumers have inherent interests in all marketplace decisions, he has assigned me an operational role in the White House Office of Policy Development. We have broadened the consumer agenda to include education, child care, and privacy. We have also addressed the traditional health and safety issues with new food labeling and health claim regulations, and we have addressed the issue of insuring savings placed in the nation's savings and loan institutions.

Finally, the President has placed individuals in whom he has confidence in critical roles as Chairpersons at the FTC and the CPSC, and as the Secretary of HHS. Where necessary, he has also enhanced the budget and personnel of agencies on the front line in protecting consumers in the market place.

PUBLICATIONS DISTRIBUTED

SENATOR MIKULSKI: In FY 1988, USOCA distributed 1,028,300 publications at a cost of $300,000. In FY 1989, USOCA distributed 588,702 publications at a cost of $300,000--a 43% reduction in the number of publications but no change in cost. Why did the number of USOCA publications distributed in FY 1989 fall by 43% from the FY 1988 level and why was there no change in associated cost.

ANSWER: The number of publications distributed dropped because the majority of the fourth edition of the Consumers Resource Handbook was distributed during FY 1988 and the stocks ran out during FY 1989. Each year, USOCA and CIC negotiate the funding available for reimbursement of CIC's cost. In FY 1988, CIC was able to distribute more than USOCA's funding allowed, by $59,922. In FY 1989, supplies of certain publications ran low and USOCA in effect reimbursed CIC for more publications than were sent. The funding arrangements with CIC require that the reimbursement be made by the third quarter of the fiscal year. This allows no chance to adjust for increases or decreases in anticipated volume. However, it has the positive effect of allowing USOCA to manage its annual budget advantageously within the severe limitations of its overall size.

LOW-INCOME, MINORITY, ELDERLY AND DISABLED

SENATOR MIKULSKI: Please describe your support of consumer education and information for low-income, minority, elderly, and disabled consumers.

ANSWER: USOCA's Consumer's Resource Handbook includes a listing of State Agencies on Aging, State Vocational Rehabilitation Services and a Federal TDD Directory. In addition, our updated Handbook carries the TDD numbers of state and local government agencies and corporate organizations. USOCA is mailing the Consumer's Resource Handbook to aging and disabled consumer organizations and the 160 Regional Libraries for the Blind and Physically Handicapped. To ensure that the Handbook is accessible to the blind, USOCA offers a computer file copy on floppy disks for loan.

The following are some other examples of what USOCA is doing for low-income, minority, elderly and disabled consumers:

o During National Consumers Week, my office will be sponsoring a "Minority and Low Income Consumer Issues Forum." In addition to providing information on consumer issues which affect the lives of low income and minority consumers, the forum will identify consumer education resources and materials in the community, encourage citizen involvement and participation in decision-making, and highlight successful government and non-government consumer programs.

o We have reprinted my Special Report on Cold Stress and Heat Stress which offers useful information on how to identify the causes and symptoms of these weather-related conditions that often threaten the lives of the elderly.

o I and members of my staff have spoken at a number of conferences sponsored by minority and women's organizations. In addition to addressing important consumer issues, we have encouraged greater citizen participation in decision-making among minorities on issues which impact on all consumers.

o USOCA assisted in developing and provided materials for consumer workshops which were conducted in Jamaica, New York; Columbia and Beaufort, South Carolina; and Elk Grove, California. Sponsored by the National African-American Consumer Education Organization, the workshops attracted low income and minority consumers.

o USOCA maintains a partnership with the American Association of Community and Junior Colleges (AACJC) which provides consumer education minigrants. All of the currently minigrant-funded programs were designed to reach these specific audiences.

o USOCA regularly provides consumer affairs internships for minority students from Howard University.

o Last month, USOCA's Associate Director for Special Concerns conducted a consumer education workshop at a conference sponsored by the Association for Gerontology and Human Development in Historically Black Colleges and Universities (HBCU) which was held in New Orleans. She encouraged the participants to develop and expand consumer education undergraduate and graduate degree programs in HBCUs.

o In 1989, USOCA coordinated and participated in a number of significant conferences, seminars and workshops designed to address the consumer concerns of the elderly and disabled. They included:
--National Council on the Aging Conference (March)
--Consumer Education Seminar for Information and Referral Consortium on Aging (April)
--National Energy and Aging Consortium Conference (May)
--Seminar on "Addressing the Consumer Problems and Concerns of America's Elderly and Disabled Citizens" (May)
--National Caucus and Center on the Black Aged Conference (June)
--National Association of Community Action Agencies Conference (September)
--Seminar on Eldercare Programs (October)

"EUBIE SMART" COLUMN

SENATOR MIKULSKI: Why did you discontinue your "Eubie Smart" news column targeted to young people? Please describe any analysis that supports your decision to discontinue that. What other methods do you have of educating young people so that they'll become smart consumers?

ANSWER: First of all, let me say that the column was a well-conceived idea aimed at all audiences. As you are probably aware, the number of consumer reporters dwindled after the 1970s, and so did the number of stories in the media devoted to consumer issues. Recently, interest in consumer stories has begun to surge again and there are not always enough experienced consumer reporters around to handle the volume of information being disseminated for consumers today. Based on this and other information, we had reason to believe that small-newspaper receptivity to a camera-ready monthly consumer column would be high.

However, we had to rely on a distribution system that caused great delays in delivery, had an inadequate address updating capability, and gave us virtually no feedback on the use of the column. We could not justify continuing to spend taxpayers' dollars on the project under these conditions, nor could we afford to devote significant resources to a project which addressed only a small segment of the media. We decided to change and enhance Consumer News and our interviews with major media and news services to disseminate the information.

We are also continuing to meet as many requests as we can for by-lined op-eds and columns on consumer issues which come to us from trade and industry publications, as well as from the general media.

As for consumer information targeted toward young people, USOCA materials are now reaching classrooms nationwide through two national initiatives with the educational community. In partnership with the American Newspaper Publisher's Association Foundation (ANPA), we produced Consumer Choices and Spending: A Newspaper in Education Guide. This activity-based curriculum material will help elementary and secondary students use the newspaper to learn about the economy and apply it to their decisions about money, jobs, and community services. Education specialists at over 1,000 major newspapers will train teachers to use it in basic skills and other subject classes. Production, printing and distribution was funded by ANPA and the Ohio Department of Education.

Our Teacher's Guide to the Consumer's Resource Handbook is another effective tool for teaching consumer skills to elementary, middle school, and secondary students. In addition to our direct mailing to over 30,000 teachers, we continue to fill requests for individual use and in bulk for teacher training workshops and conferences.

We are currently exploring another school-based outreach to young consumers through a media firm in collaboration with various sectors of the educational community.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

STATEMENT OF TERESA NASIF, DIRECTOR

ACCOMPANIED BY WILLIAM B. EARLY, JR., DEPUTY COMPTROLLER FOR BUDGET, GENERAL SERVICES ADMINISTRATION

INTRODUCTORY REMARKS

Senator **Mikulski**. Now, we're going to now hear from the Consumer Information Center. Ms. Teresa Nasif.

Ms. **Nasif**. Yes.

Senator **Mikulski**. We want to welcome you back. I understand, last year, when we had an appropriation, that you were on maternity leave.

Ms. **Nasif**. Yes; I was.

Senator **Mikulski**. Well, welcome back. How's everything going?

Ms. **Nasif**. Very well, thank you. My daughter, Alexandra, is 13 months old now. I'm glad to be back.

Senator **Mikulski**. Is it true we're going to see a lot of publications on day care?

Ms. **Nasif**. Yes. [Laughter.]

Senator **Mikulski**. We want to also welcome Mr. Bill Early, GSA's Budget Director.

Nice to see you, Bill.

Congratulations on the 20th anniversary of the Consumer Information Center's service. CIC has distributed, I know, almost a quarter of a billion publications since its inception and has served more than 40 Federal agencies in your mission to provide information to the public.

I know you're requesting $1.5 million, a relatively large percentage increase over last year's budget, but I think you're still a bargain. Absolutely a bargain.

As one of the smallest agencies to appear before this subcommittee, you were hard hit by last year's across-the-board reductions. We want to hear what your needs are, what your priorities are, and if you note any emerging trends in kind of consumer request. Last year, we had talked about long-term care and some of these things. Essentially, requests for information, I know, often comes from helping people's day-to-day needs.

Would you then just tell us in your own words and however well you want to communicate this? OK. Just please proceed.

Ms. **Nasif**. Should I read an abbreviated statement? Or would you like for me, Madam Chair, to respond to your question? I have a summary.

Senator **Mikulski**. OK.

OPENING STATEMENT

Ms. NASIF. Madam Chair and members of the subcommittee, I appreciate the opportunity——

Senator MIKULSKI. Is your full testimony five pages?

Ms. NASIF. Yes; Madam Chair.

Senator MIKULSKI. Read the whole thing.

Ms. NASIF. Read the whole thing?

Senator MIKULSKI. Yes; I mean, you can skip the 20 years, but——

Ms. NASIF. OK.

Senator MIKULSKI. I really would like to get an update on you.

Ms. NASIF. Madam Chair, this October, CIC will celebrate 20 years of success providing a cost-effective, nationwide system for Federal agencies to deliver vital information to the public. This information covers a wide variety of subjects that significantly affect many aspects of our daily lives.

They include topics such as health and safety, employment and credit rights, market and housing issues, and Federal benefits.

CIC liaison officers work on a daily basis with more than 100 Federal program offices to help them identify and produce publications on subjects of concern to consumers. In that process, CIC also identifies and closely works with trade associations and private-sector companies which have an interest in providing generic and unbiased consumer information to the public.

CONSUMER INFORMATION CATALOG

These efforts with the private sector multiply limited Federal printing and distribution funds and have to date resulted in 51 individual cooperative, Government-industry publications. We publish the quarterly Consumer Information Catalog as the primary tool to make consumers aware of the availability of Federal consumer information, and then we coordinate fulfillment of the resulting orders from a distribution facility in Pueblo, CO.

Since its inception, we are proud to have filled requests from consumers throughout the country for 220 million publications.

In recent years, budget constraints throughout the Federal Establishment have prevented Federal agencies from undertaking significant new information efforts. In general, agencies continue to fund current publication activities, but initiate new efforts only for the highest priority issues.

Given these budget realities, CIC's media program is a vital link in delivering information to the public. Through this program, CIC has traditionally promoted available Federal publications. And in a new initiative, we've also begun to provide helpful advice on consumer topics as they develop, even when a publication is not available.

CIC MEDIA PROGRAM

CIC vigorously solicits the cooperation of radio and television stations, newspapers and magazines to publicize Federal information that consumers need to know about. As an example of our success in the media area, television stations will donate air time valued at an estimated $6 million over a 12-month period to our fiscal year 1990 public service announcement.

Because of agency printing budget constraints, we are continuing to explore the feasibility of using computer-based systems to complement the distribution of publications to consumers. These efforts include the use of on-line computer services as well as an in-house electronic bulletin board to disseminate Federal consumer information.

I'd also like to mention some of our very successful marketing projects.

Each year, we carry out a number of projects to provide information to the public through a variety of direct marketing approaches. Two examples are the cooperative projects that we've done with the Internal Revenue Service and with the Department of Veterans Affairs.

Senator **Mikulski**. I'm sorry; could you repeat that again?

Ms. **Nasif**. We've had two projects, one with the Internal Revenue Service and one with the Department of Veterans Affairs.

The one with IRS involved our printing 6 million mail-back cards promoting the availability of the Consumer Information Catalog, and also, a publication from the Social Security Administration.

IRS inserted the cards in mailings that they did to taxpayers who had requested supplemental tax information. Consumers mailed back the cards and received copies of the catalog and the SSA publication. Here are examples of our fiscal year 1990 effort where we're promoting not only the Consumer Information Catalog, but the Consumer's Resource Handbook. We are getting a fantastic response rate.

When people sit down to do their income taxes, they seem to be motivated to send for more information. So it's been a very successful project.

The other project that I mentioned involved working with the Department of Veterans Affairs and the Department of Treasury. CIC printed an insert offering free booklets and it was included with 3 million VA compensation, pension, and education benefit checks mailed in June 1989. The offered subjects included social security benefits, starting a small business, and financing an education.

These two projects combined resulted in orders from consumers for nearly 1½ million consumer publications. We are repeating the project in fiscal year 1990 and, hopefully, again in 1991.

CIC's requested appropriation of $1,540,000 for fiscal year 1991 represents an increase of $201,000. It provides for a continuation of programs at fiscal year 1990 levels.

The requested level modifies the trend of the last 5 years which has used nonappropriated moneys in the CIC fund to cover our increasing administrative expenses. This pattern has led to a decline in the fund balance. We are now requesting that the appropriation assume a larger share of the administrative expenses.

The appropriated portion would increase from approximately 65 percent of administrative expenses in fiscal year 1990 to slightly more than 70 percent in fiscal year 1991.

Madam Chair, as CIC approaches its third decade of dedicated service to the American public, we consider it a privilege and a challenge to play such an important role in consumer information and education.

We hope you'll agree that the Consumer Information Center delivers valuable information to citizens throughout the country in a manner unsurpassed by any other program and that our request merits favorable consideration.

Thank you for the opportunity to present the statement.

[The statement follows:]

STATEMENT OF TERESA NASIF

Mr. Chairman and Members of the subcommittee, I appreciate the opportunity to be here today to discuss the fiscal year 1991 budget request of the Consumer Information Center (CIC)

In October, CIC will celebrate 20 years of success: providing a cost-effective, nationwide system for Federal agencies to deliver vital information to the public. This information covers a wide variety of subjects that significantly affect many aspects of our daily lives. They include topics such as health and safety, employment and credit rights, mortgage and housing issues, and Federal benefits.

CIC liaison officers work on a daily basis with more than 100 Federal program offices to help them identify and produce publications on subjects of concern to consumers. In that process, CIC also identifies and closely works with trade associations and private sector companies which have an interest in providing generic and unbiased consumer information to the public. These efforts with the private sector multiply limited Federal printing and distribution funds and have to date resulted in 51 individual cooperative Government/industry publications.

CIC publishes the quarterly Consumer Information Catalog as the primary tool to make consumers aware of the availability of Federal consumer information. We then coordinate fulfillment of the resulting orders from a distribution facility in Pueblo, Colorado. Since its inception, CIC is proud to have filled requests from consumers throughout the country for 220 million publications.

In recent years, budget constraints throughout the Federal establishment have prevented Federal agencies from undertaking significant new information efforts. In general, agencies continue to fund current publication activities, but initiate new efforts only for the highest priority issues.

Given these budget realities, CIC's media program is a vital link in delivering information to the public. Through this program, CIC has traditionally promoted available Federal publications and, in a new initiative, has also begun to provide helpful advice on consumer topics as they develop—even when a publication is not available. CIC vigorously solicits the cooperation of radio and television stations, newspapers, and magazines to publicize Federal information that consumers want and need to know about. As an example of our success in the media area, television stations will donate air time valued at an estimated six million dollars over a 12-month period to CIC's fiscal year 1990 public service announcements.

Because of agency printing budget constraints, CIC will also continue to explore the feasibility of using computer-based systems to complement the distribution of publications to consumers. These efforts include the use of on-line computer services as well as an in-house electronic bulletin board to disseminate Federal consumer information.

Each year, CIC carries out a number of projects to provide information to the public through a variety of direct marketing approaches. Examples include cooperative projects with the Internal Revenue Service (IRS) and the Department of Veterans Affairs (VA):

1. In fiscal year 1989, CIC printed six million mail-back cards promoting the availability of the Catalog and the Social Security Administration's Request for Earnings and Benefit Estimate Statement. IRS inserted these cards in mailings of supplemental tax forms requested by citizens throughout the nation.
2. Working with VA and the Department of the Treasury, CIC printed an insert offering free booklets which was included with three million VA compensation, pension, and education benefit checks mailed in June 1989. The offered subjects included Social Security benefits, starting a small business, and financing an education.

These two marketing projects resulted in orders from consumers for nearly 1.5 million publications during fiscal year 1989. Based on this success, CIC is repeating the projects in fiscal year 1990 and, within funding limitations, we plan similar projects in fiscal year 1991.

CIC's requested appropriation of $1,540,000 for fiscal year 1991 represents an increase of $201,000, which provides for a continuation of programs at fiscal year 1990 levels. However, the requested level modifies the trend of the last five years to use non-appropriated monies in the CIC Fund to cover increasing administrative expenses. Since this pattern has led to a decline in the Fund balance, we are requesting that the appropriation absorb a larger share of administrative expenses. The appropriated portion would increase from approximately 65 percent of administrative expenses in fiscal year 1990 to slightly more than 70 percent in fiscal year 1991.

Mr. Chairman, as CIC approaches its third decade of dedicated service to the American public, we consider it a privilege and a challenge to play such an important role in consumer information and education. We hope you will agree that CIC's time-proven and cost-effective program delivers valuable information to citizens throughout the country in a manner unsurpassed by any other program or activity and that, accordingly, our request merits favorable consideration.

Thank you for the opportunity to present this statement. I will be happy to answer any questions at this time.

Senator MIKULSKI. Well, thank you. I'm a big fan of what you do.

Ms. NASIF. I'm pleased to hear that.

Senator MIKULSKI. Very often, people wonder what do they get out of their Government. Also, the American people are very self-reliant, resourceful, and self-propelled. If they know what to do, they very often do it.

I think you, as well as the previous agency, and yours, is very important at that.

May I see your catalog for this year?

Ms. NASIF. Yes, of course. We have put together a kit for you that also contains——

Senator MIKULSKI. Well, let me have my kit.

Ms. NASIF. Yes—several of our more popular publications. We've also included samples of our releases to the media, both newspapers and magazines, as well as the electronic media. We regularly send releases to radio and television stations highlighting information in the booklets.

We know not everybody will send to Pueblo for a booklet, and so we do get the information out through the media.

MOST POPULAR PUBLICATIONS

Senator MIKULSKI. What are your most popular publications?

Ms. NASIF. Our No. 1 most popular publication right now, is the Consumer's Resource Handbook—the 1990 revised edition. It is being requested on 40 percent of all the catalog orders that we are receiving in Pueblo.

There's also a great deal of interest in health, diet and nutrition, and cancer prevention.

We are also receiving lots of orders for information on Federal programs, especially a piece from the Social Security Administration, Request for Earnings and Benefit Estimate Statement. By a person filling out the form, Social Security will determine what your retirement benefits are likely to be.

Consumers are very interested in Federal programs. They write for information on veteran benefits, on the savings bond program, and almost anything relating to money management, ranging from investment advice to saving money in general.

STATUS OF GOVERNMENT INFORMATION

Senator MIKULSKI. What is your opinion of the status of Government information being distributed to consumers? Do you feel all the important issues are being covered?

Ms. NASIF. I think most of the important issues are being covered. What we have seen in the last several years is that, given budget constraints, agencies are moving away from free distribution and more toward charging for their publications. The percentage of sales titles in our catalog has increased.

Agencies are finding it difficult to continue to fund high volumes of publications without charge to consumers. So, they are moving more toward the Government Printing Office regular sales program, as well as to the 50-cent program.

PUBLIC SERVICE SPOTS FOR TELEVISION

Senator MIKULSKI. Well, then, I'm going to ask you some questions on funding. But before I do, do you want to tell me how you use TV?

It's very interesting. Your budget was about $1 million and you were hit by across-the-board sequesters and things like that, though a modest percentage for you would be big.

I know Mr. Early has conveyed that to us.

Then you got 6 million dollars' worth of TV. That's a lot of leverage for $1 million. Would you tell us what you got out of TV, I mean, what TV did and how that worked?

Ms. NASIF. Every year, we produce a television public service spot, which is broadcast by stations free of charge to the Government. In 1991, we're proposing to spend $200,000 to produce five different lengths: a 1-minute, a 30-second, 20-second, 15-, and 10-second version.

The spots tell people to write to Pueblo, CO, for a free Consumer Information Catalog.

We provide those public service spots to television stations across the country, about 800 TV stations, and then we do some marketing work with the top markets. We actually visit with the public service directors in the top 50 markets to explain the program to them and to explain to them why our spot should be used versus our competitors.

The average station receives 200 public service spots per month. So we feel that having the personal meetings with the public service directors gives us an edge in getting on the air.

Senator MIKULSKI. I see.

Ms. NASIF. So, the value of that spot is 6 million dollars' worth of donated air time.

Senator MIKULSKI. Two comments. First of all, I think that's great. Second, I'm sure you're aware that most TV stations are now running consumer complaint programs. In my visitations, the TV stations in Maryland come to visit me as part of their own public information to see what the issues are.

In quizzing them about their consumer issues, because I know what's happening in the volume of my casework operations, it's skyrocketing. People really have lots of questions, lots of concerns.

So when you talk to the public service people, you might want to link it to problem solving.

Ms. NASIF. We always do, Madam Chair. We always take the Consumer's Resource Handbook as an example of the fine information that's available without charge from Pueblo, CO.

Senator MIKULSKI. I'm very familiar with the way people are rooked in by advertising, which promises to give them consumer information, then they get on a mailing list for all types of products.

I once saw an ad for veterans information. I sent for it. I got information far more skimpy than in any of your publications, we know from our work with the VA. VA's one of our agencies. So I thought, what the heck, if the private sector is doing a better job, let's learn.

Well, private sector—this particular private sector—was not doing a better job. The information was skimpy. I'm not sure about the error, but, boy, I got a lot of ads because it was targeted to an over-the-middle-age population for all kinds of other things I think of questionable value.

Ms. NASIF. It's true. We feel like it's a very vital mission that we have to alert the public to the availability of this information. The information is there. It's well and good for us to identify it and put it into a warehouse in Pueblo. If we don't have an aggressive marketing and media program, people will be sending off money to other organizations that will charge and not give them the same substantive information we'll give them without charge.

ELECTRONIC DISSEMINATION OF INFORMATION

Senator MIKULSKI. Well, let me also, then, go to this issue of the computer innovations that you wish to do.

Is there an adequate request in this budget for you to be exploring this in a solid kind of way?

Ms. NASIF. Yes; we are really in the embryonic stages. We're realizing that we can't wait around for agencies to give us hard copy publications any more, especially since so many of them have a charge placed on them and because it's taking some agencies a longer time than ever before to produce the publications.

We've decided that in order to fulfill our mandate, we've got to disseminate information, either more aggressively through the media or exploring these automated systems.

We are hoping that during fiscal year 1991, we will establish an electronic bulletin board. We're already in the process of putting our catalog on an automated information service based in Houston called U.S. Videotel, which will be made available to their subscribers. We can see that, as the population gets more sophisticated, that will be another way to get information out. However, I really believe that for the majority of consumers, this is not necessarily the way for us to reach them. Not everybody has a computer.

Senator MIKULSKI. Well, that's exactly it. Though we want you to have all of the modern technology, the use of computers will be class based and age based.

Right now, a newly arrived immigrant trying to find their way can contact you.

Ms. NASIF. Yes.

Senator **Mikulski**. You might be one of the first things they ever read in English.

To the vet who was at Iwo Jima or Pork Chop Hill, who just says, "Well, let me check and see what it is I'm eligible for, and in the meantime, make sure my social security records are squared away." That's the kind. They're not sitting around with Apples or MacIntoshes.

Ms. **Nasif**. I fully agree, Madam Chair.

Senator **Mikulski**. They think a MacIntosh is a raincoat and an apple is something you eat.

USER FEE

Well, let's then go, since we're for publications, increasing the user fee.

My question is, Do you think that a $1 user fee on your free publications will affect the demand for the publications?

Ms. **Nasif**. Well, currently, 20 percent of our customers order only one free publication, thereby bypassing the $1 user fee. Our $1 user fee is triggered only if somebody orders two or more free booklets. It's still possible for a consumer to pick up the catalog, order one free book, and not spend $1.

We are proposing to apply the $1 user fee universally. So a person could order 1 to 25 books for that same $1.

But with the 20 percent currently that is avoiding the user fee, we do believe we'll probably lose a portion of them as customers, perhaps because they can't afford to pay the $1 user fee or maybe because they don't feel like it. But we think that the group that does send in the $1 is likely to order more than one book. Once they include the $1, since they can order up to 25 booklets, we think that that group certainly would order more information.

We're proposing this mainly because our fund balance is declining. We've been using money from the CIC fund over the last several years to cover our operating expenses. We realize that we need to cut expenses and at the same time try to increase our sources of revenue. That's why we are contemplating applying the $1 fee on a flat basis to all orders for free publications.

Senator **Mikulski**. I think it's worth a try. I am someone who doesn't want to have barriers to people having access to information.

But, you know, the cost of a pack of cigarettes in Baltimore today is $1.65, to ride a bus, and so on.What you get for $1 is really pretty profound, from thrifty meals for two, which you can then reduce to an even more thrifty meal for one. So I think it's worth a try. I like it better than trying to get ads.

PRIVATE FUNDING FOR CONSUMER'S RESOURCE HANDBOOK

Do you want to comment on the Office of Consumer Affairs' desire to get private-sector contributions?

Ms. **Nasif**. Certainly; I will be glad to comment on it. I don't want to be viewed as a naysayer, but I do want to make the statement that the Consumer Information Center obviously thinks the Consumer's Resource Handbook is one of the outstanding achievements of the U.S. Office of Consumer Affairs.

It is one of our most popular publications. Two years ago, when the 1988 revised edition came out, we received 800,000 requests for it over a 12-month period.

We believe that moving to a funding proposal where OCA will seek money from the private sector is likely to reduce the number of books made available to the general public through CIC. We would basically be dependent on the extent and success of their fund raising.

The Consumer Information Center also works with private sector companies on cooperative publications where we match up Federal agencies with a private sector organization to develop a booklet of mutual concern.

Our observation has been that private-sector companies generally want to contribute money toward booklets that deal with the relevant issues important to their industry.

It will be a real challenge for the Office of Consumer Affairs to find enough funding for the number of publications that the public obviously has demonstrated a level of demand for.

In 1988, we received 800,000 requests for the Consumer's Resource Handbook. We're talking about a great deal of money and we think it's going to be a challenge for them.

The Consumer's Resource Handbook saves the Government money. We're teaching the population how to solve their own problems. They do that instead of writing to Federal agencies asking Federal agency program officials to help them solve the problems.

So, it is in the Government's best interest and in the public good, I believe, to keep it as a free publication and to keep it fully funded by the Federal agencies.

Senator MIKULSKI. I think I understand your point. Let me just say this. I think they're trying to arrive at how to produce the Consumer's Resource Handbook. You know the number of requests, et cetera, et cetera. Also, you're about to embark upon a fee. We'll see how this goes. I mean, we want to keep posted, if there are declines, and even areas.

If you would see for example, if we institute the fee and it goes down among the elderly, then it will be a good barometer.

We would really like you to be in communication with that Office. We think we've got a very excellent, energetic director, for your experience, even with the fee for bulk material, et cetera, et cetera.

OK?

LEAD-BASED PAINT

Now, I've got just a couple more questions. One you talked about is saving the Federal Government money. This has given me some advice.

I'm very much concerned about lead-based paint and what it does to children. The point of my question will be getting information out to the public on this issue.

Background. HUD guidelines on lead-based paint are to be out in April. The Consumer Product Safety Commission has offered to write a publication on safe removal of lead- based paint. But neither HUD, nor CPSC, will fund printing and distribution.

CIC, as Kevin pointed out, would be the one to distribute.

Do you know if there are plans to promote and distribute a nontechnical publication on the dangers of lead-based paint? What do you think would be the cost of printing and distributing something that could go to landlords, public housing authorities, and people who might even be interested in getting into expanding removal of asbestos, as well as to lead-based paint?

Ms. **Nasif**. I believe there's a tremendous need for this information. The HUD guidelines, when they're issued, apparently are going to warn people about the danger of attempting to remove lead-based paint themselves. It can be lethal if persons attempt to do it themselves.

This type of information, I believe, should be distributed to the public. What is the good of doing research if you don't get the information out?

I could certainly provide for the record our estimates of what it would cost to print. It would depend on the size of the publication. We could also estimate the cost of distribution.

Unit costs for the current year are 45 cents.

PUBLICATION ON ASBESTOS

Senator **Mikulski**. Do we have a simple guidebook now on asbestos?

Ms. **Nasif**. Yes, we do; it's in the GPO sales program.

Senator **Mikulski**. What page would this be on in your catalog?

Ms. **Nasif**. It would be in the housing category, page 9. It's titled, "Asbestos in the Home." It's in the GPO sales program. It does sell for $1; it's 13 pages.

PUBLICATION ON LEAD-BASED PAINT

If the publication on lead-based paint were placed in the GPO sales program, it would just be the cost of developing the manuscript and basically some typesetting charges for either agency.

Senator **Mikulski**. Well, what we're talking about is not only how to be able to alert parents, but I like to work on the assumption that there will be good guy landlords who are afraid, who just wonder, how do you undertake this?

Ms. **Nasif**. Just general guidelines.

Senator **Mikulski**. Guidelines.

Ms. **Nasif**. I should mention one experience we've had in the Consumer Information Center program, that when a charge is placed on information, generally, the demand is cut anywhere by 50 to 90 percent. A booklet that is offered free reaches a much wider audience. It's a tradeoff. Every agency struggles with it every day.

Should they offer the information on the lead-based paint for free, thereby reaching greater numbers of consumers? Or should they put a charge on it, limiting the information to be distributed?

So that's the sort of issue that needs to be decided.

Senator **Mikulski**. Would you give us some estimates, though?

Ms. **Nasif**. I would be glad to, Madam Chair, the cost of it as a free publication.

Senator **Mikulski**. I'm just going to give you an example, Ms. Nasif, and it's something I'll be bringing to the Secretary of Health's attention.

Right now, there are children in my town who have lead paint poisoning. To go to a facility that will chelate their blood like Johns Hopkins, it will cost $8,000 to chelate the blood of that child, in addition to what the child will go through and has already gone through—$8,000.

If we help 20 kids in just my town, that's $160,000. By the way, in many instances, that's often out of the Medicaid program. Again, it's not like, if we don't do it, it won't matter.

I think probably, maybe for $160,000, we could get a lot of lead out of a lot of things. But I just give you that as a cameo because we lose lives, we lose intellectual capacity, and so on.

Ms. **Nasif**. I completely agree, Madam Chair. It's the work that the CIC does every day, trying to relate to agencies our urgency on these issues and to tell them that it saves taxpayers' money and it's in the Government's best interest to pay and get the information out.

Senator **Mikulski**. Well, you'd be a big help to me if you could do that. Again, we take it as advisory. Don't feel that it's got to be precise. We're looking for broad ballpark. Are we talking about $1 million? $100,000? $10,000?

We're not competent to even know the range of this.

Ms. **Nasif**. I'll be glad to provide it for the record.

[The information follows:]

COST OF PUBLICATION

The Consumer Information Center estimates that it would cost $151,000 to print and distribute without charge to the public a publication on the safe removal of lead-based paint. Costs are based on printing of 500,000 copies, and distribution by the Consumer Information Center's facility in Pueblo, CO. The CIC projects that 500,000 copies would be the amount needed to reach a broad cross section of interested groups such as consumer organizations, home remodelers, county extension agents, landlord associations, day care centers, public health officials, and public housing authorities.

PRINTING COSTS..................................$50,000
500,000 copies of a 16-page booklet measuring 5-1/2 by 8-3/4 inches, one color, self-cover. Unit cost is projected at 10¢.

DISTRIBUTION COSTS.............................$101,000
This assumes distribution of single copies to individual consumers plus bulk distribution to interested groups. The bulk distribution would involve purchase of mail lists and mailing of a single copy of the publication with a card for ordering multiple copies and the fulfillment of the resulting orders. Distribution costs cover postage, handling, and warehousing.

Breakout of distribution costs:
100,000 singles @ 49¢..........................$49,000
400,000 multiple copies @ 13¢ per publication...$52,000

For the most effective dissemination of this important information, CIC strongly recommends that it be offered without charge at least during the first year of its availability. This would enable nationwide distribution to a variety of nonprofit groups that are not likely to order multiple copies of a sales publication. In subsequent years, the booklet could be placed in the Low-Priced Publication (50¢) Program or in GPO's regular sales program.

The following costs are based on performance of publications on similar topics currently in the 50¢ and sales program.

Agency cost to print and distribute the lead-based paint publication through the 50¢ program is estimated to be less than $1,500. This is based on printing 15,000 copies at 10¢ per copy which is the annual anticipated number of requests from consumers. (Placing a charge on a publication significantly decreases public demand, so fewer copies would have to be printed.) There is no distribution cost for the agency since consumers pay 50¢ to cover the postage and handling costs.

Agency cost to print and distribute the lead-based publication through the GPO sales program is estimated to be negligible. The only charges to the agency are GPO make-ready costs. GPO sets a sales price that covers printing and distribution costs. Annual anticipated distribution is 12,000 copies.

Several Federal agencies are involved in the issue of safe removal of lead-based paint, for example: HUD, CPSC, EPA, and the Centers for Disease Control. A critical next step would be for one agency to be clearly designated as the lead agency to fund the development and dissemination of this vital information to the public.

REVOLVING FUND BALANCE

Senator MIKULSKI. Thank you. You talked, and this is my last question, the revolving fund is now down to $63,000. We're close to the margin.

My question to you would be, What are your strategies for avoiding the depletion of the revolving fund for 1992, and what would be the implications of doing that?

Ms. NASIF. The CIC fund has funded over $3 million of CIC operating expenses over the last several years. We've been very fortunate to have it there as a source of revenue.

TELEPHONE ORDERING SYSTEM

But because of the fact that the balance is declining, we are planning to reduce our expenditures primarily in the marketing area. It has been a goal of ours for several years now to establish some kind of telephone ordering system where people can——

Senator MIKULSKI. That was going to be my next question.

Ms. NASIF. Consumers could pick up the phone and order a free copy of the Consumer Information Catalog. We looked into an 800 system and I guess we finally figured out that we can't afford that. So we are going to be reducing expenditures in that area.

We have projected expenses of about $150,000. We're now looking into putting in extra phone lines in Pueblo, CO, with consumers paying the toll charge to call to get a copy of the catalog.

We discovered that that was cheaper for them than the 900 service. The 900 service, which you may be familiar with, having seen it advertised on TV and other places.

Senator MIKULSKI. I know it's used a lot for things like dial-a-porn.

Ms. NASIF. That's right. It's used for a great variety of things. One advantage of the 900 service is that consumers end up absorbing most of the cost of the system.

We felt that the most reasonable thing for consumers was to just pay the toll charges, which we discovered from most parts of the country during the day is only 25 cents for the first minute; whereas, the 900 numbers are $1.25 and $2. So we are scaling back our plan for the telephone ordering system.

The other thing we are doing is, as we discussed earlier, applying the $1 user fee to all orders for free booklets, thereby increasing revenue from that source.

We don't want to deplete the fund and we think that if we take prudent steps starting right now, it won't happen.

Senator **Mikulski**. Could you tell me how much it would have cost to establish an 800 number?

Ms. **Nasif**. We estimated that the first year we would have gotten 300,000 calls. It would have cost about $300,000 for an 800 system, but CIC only had $250,000 available.

Senator **Mikulski**. So about $1 a call?

Ms. **Nasif**. Yes; it was about $1 a call. We believe that just taking the first few steps, by putting the extra lines in Pueblo and seeing what the response is, it will give us an ability to measure what the volume is, and take it from there.

Senator **Mikulski**. Well, thank you, Ms. **Nasif**. That really answers my question.

Do we have more for the record? We want to again thank you.

You know, as someone whose background is that of a social worker and an educator, I look forward to this segment of my hearings every year and getting your updates. We want to welcome you back. We hope your own life goes well.

We really thank you most sincerely for the important public service that you do. I mean, there are people all over this country who are living better and feel that their Government is actually doing something for them because of your efforts.

Would you please thank your staff for me?

Ms. **Nasif**. I certainly shall.

Senator **Mikulski**. We want to do all we can to support your efforts. I thank you.

Ms. **Nasif**. We appreciate your support. We hope that you come to our anniversary party in October when we celebrate CIC's 20th anniversary.

Senator **Mikulski**. Well, we'll call you on the toll. [Laughter.]

You're based here, though?

Ms. **Nasif**. Yes; we're based here.

Senator **Mikulski**. Your operation center is in Pueblo?

Ms. **Nasif**. Yes; there are 20 of us here in Washington, but the facility is in Pueblo, CO.

Senator **Mikulski**. Thank you very much.

Ms. **Nasif**. Thank you very much.

CONSUMER PRODUCT SAFETY COMMISSION

STATEMENT OF JACQUELINE JONES-SMITH, CHAIRMAN

ACCOMPANIED BY:

CAROL G. DAWSON, VICE CHAIRMAN
THOMAS W. MURR, JR., ACTING EXECUTIVE DIRECTOR
SUSAN BIRENBAUM, ACTING GENERAL COUNSEL

Senator MIKULSKI. Next, we want to turn to the Consumer Product Safety Commission. We want to give a special welcome to Jacqueline Jones-Smith, the new Chairwoman who appears before this subcommittee for the first time.

Ms. JONES-SMITH. Good morning, Madam Chair.

Senator MIKULSKI. Well, Ms. Jones, I understand that you were most recently with the Federal Election Commission.

Ms. JONES-SMITH. Yes, I was, Madam Chair.

Senator MIKULSKI. Part of that, you were the assistant county attorney for Montgomery County.

Ms. JONES-SMITH. Yes.

Senator MIKULSKI. Well, I'm delighted to see that the chairman's position was filled after this long hiatus. Not only that, but it will allow the Commission to get on with its work, which will provide you with the much-needed quorum so that you can conduct official business.

We believe that the commission is a vital, though small, agency. It has a macro job with a micro budget. I believe that consumers have a right to be heard, the right to know about deficiencies of products in our market place and the right to be protected.

This is your mandate and I want to be sure you're able to fulfill it. You're obviously a woman whose background is to use the law for justice. That's what we want to be able to help you do.

As I understand it, you're requesting a fiscal year 1991 budget of $35.6 million, a very modest request increase of only 1.4 percent. I understand that this budget, it's a declining trend that we've been seeing for several years. It's really bare- bones.

This morning we're going to talk about whether that budget really allows you to function effectively. I note that the budget also proposes hearings on hazard contracts, once again. From what I understand, these contracts are needed so that the Commission can get technical, very technical assistance on product problems.

I want to be able to very closely examine this proposal with you. I'm going to ask you to go ahead with your testimony. We want to welcome you and support this very important effort.

INTRODUCTION OF ASSOCIATES

Ms. JONES-SMITH. Thank you very much, Madam Chair.

Let me just first introduce the members of the Commission that are here at the table. To my left is Vice Chairman Carol Dawson.

Commissioner Anne Graham was with us earlier this morning, but has suddenly taken ill and could not be here. She apologizes for not being here.

Senator MIKULSKI. Well, Ms. Dawson, we want to welcome you as well. Would you please convey to Commissioner Graham certainly our hope that she gets well. I'll tell you, during this rock' n roll time of quorum and so on, she's been really one of the steadfast advocates.

Ms. JONES-SMITH. Yes; she has.

Senator MIKULSKI. Ms. Dawson has also continued the commitment, even though there was the inability to move. I know it's been very frustrating. You take on a chore for the Government. You want to provide a service. So now, we really want to move it.

Ms. JONES-SMITH. Exactly.

Senator MIKULSKI. So tell Anne we said, hi, and again, our best wishes.

Ms. JONES-SMITH. Thank you very much and she does extend her apologies.

Also, to my right is Acting Executive Director, Thomas Murr, and further to the right is Acting General Counsel Susan Birenbaum.

In the interest of time, Madam Chairman, our testimony is submitted for the record. I would like to summarize at this point very briefly.

Senator MIKULSKI. Please do.

SUMMARY OF STATEMENT

Ms. JONES-SMITH. Madam Chair, it's with great pleasure that the three members of the Consumer Product Safety Commission appear before the subcommittee today to discuss the President's budget recommendation for the Commission for fiscal year 1991.

As you know, the period since the Commission last testified before the subcommittee has been one of the most unusual in the agency's history, as the Commission lacked a quorum for over 10 months and could not officially conduct certain items of business.

The subcommittee can be assured, however, that no safety problems of a critical or a serious nature went totally unaddressed during this period. Now, with the quorum restored, many items which were pending have already been acted upon by the Commission and the remaining ones will be taken up in the near future.

MODEST BUDGET

The 1991 President's budget and OMB mark of $35.6 million and 513 FTE's is, by all accounts, a modest one. It represents a funding level of $1.7 million less than the current services requirement.

As most programs and activities will be maintained during the year, management of the available resources will be a challenge for the Commission.

Nonetheless, the Commission can assure the subcommittee that it will fulfill its safety mission under the statute, do its best to ensure a successful outcome for each project under the budget, pursue rulemaking actions as vigorously as possible when they are warranted, and address all serious violations of regulations and substantial product hazards brought to the agency's attention.

Meeting these goals during a period of fiscal restraint requires that the Commission employ two important principles. First, the Commission must be highly selective in choosing which items to support. The requested resources will permit the agency to accomplish the full range of activities described in our justification document provided no unforeseen needs arise.

Second, the Commission must seek to obtain maximum levels of cooperation from outside organizations in order to leverage its resources. The 1991 budget request clearly reflects these two principles.

STAFF RETENTION CRITICAL

With regard to the first principle, perhaps the most important program decision reflected in this budget is to retain as many staff as possible at the expense of other cost categories.

Placing such a high priority on the retention of staff has proven successful in the past and is especially evident in the accomplishments of the past year, especially because the agency lacked a quorum.

For example, 15 voluntary standards were completed on products as diverse as ATV's, cribs, and swimming pool covers. With the cooperation of the U.S. Customs Service, millions of dollars' worth of illegal fireworks, toys, and other products were intercepted at ports throughout the country and prevented from entering the retail distribution chain.

Corrective action plans for defective products were negotiated with industry and safety information on lead-based paint and indoor air quality was developed and provided to consumers.

ONGOING EFFORTS

While fewer hazard projects are proposed for support in 1991 than in previous years, the Commission believes it has selected the most important ones to be considered. Work will continue on improving child-resistance of cigarette lighters, preventing drowning accidents, making playground and playground equipment safer, reexamining permissible levels of lead in paint mixtures, and studying the contribution of consumer products to indoor pollutant levels.

To such ongoing efforts will be added new projects addressing fires caused by heat tapes, strangulation by crib toys, and the over 1,000 deaths and 1 million injuries attributable each year to bicycle accidents.

Several contract programs will be reduced by one-half rather than eliminated in order to provide flexibility necessary to address more critical problems when they arise.

Product safety assessments and State and local contracts in support of compliance and enforcement programs are two important examples.

HAZARD CONTRACT FUNDS

Careful resource management during the fiscal year will still permit the Commission to enlist contract support when in-house expertise or geographic coverage is lacking. An exception, however, is the proposed elimination of hazard contract funds. In some cases, project completion will be delayed until contract funds can be made available from other sources.

As a result of this, the Commission is unable to select any fully funded priority projects for 1991.

In light of these adjustments, the continued cooperation and support of outside organizations will greatly assist the Commission in meeting its 1991 goals. Nowhere is this more evident than in the development of voluntary standards where often safety measures can be achieved more quickly and with fewer resources than ever before possible.

Similar reliance on outside organizations can be seen in two of the program improvements for 1991. First, we will expand the national electronics injury surveillance system, or NEISS, where participation of reporting hospitals is critical.

Second, section 15 case finding efforts will be increased and enhanced through arrangements with organizations such as the Administrative Offices of the U.S. Courts. These arrangements will provide information critical to the Commission's safety mission at little or no cost to the agency.

In conclusion, the subcommittee can be assured that the Commission's basic program components will remain viable in 1991. The agency will do its best to ensure a successful outcome of each of our projects and, while serious reductions are going to have to be made, the Commission is going to employ all of its available alternatives to minimize this impact.

Thank you very much, Madam Chair, for allowing us to be here and we'd be pleased to answer any questions.

[The statements follow:]

STATEMENT OF JACQUELINE JONES-SMITH

Madam Chair, it is with great pleasure that the three members of the Consumer Product Safety Commission appear before the Subcommittee today to discuss the President's budget recommendation for the Commission for fiscal year 1991. As you know, the period since the Commission last testified before the Subcommittee has been one of the most unusual in the agency's history, as the Commission lacked a quorum for over ten months and could not officially conduct certain items of business. The Subcommittee can be assured, however, that no safety problems of a critical or serious nature went unaddressed during this period. The lack of a quorum was recently resolved by the appointment of a new Chairman by President Bush. Many items which were pending have already been acted upon by the Commission, and remaining ones will be taken up in the near future.

1991 BUDGET REQUEST

The 1991 President's budget and OMB mark, $35.6 million and 513 FTEs, is by all accounts a modest one. It represents a funding level $1.7 million less than the current services requirement. As most programs and activities will be maintained during the year, management of the available resources will be a challenge for the Commission. Nonetheless, the Commission can assure the Subcommittee that it will fulfill its safety mission under the statute; that it will do its best to ensure a successful outcome for each project included in the budget; that it will pursue rulemaking actions as vigorously as possible when they are warranted; that all serious violations of regulations and substantial product hazards brought to the agency's attention will in fact be addressed; and that the Commission will judiciously apply its resources to those activities which will provide the greatest margin of protection for the American consumer.

Meeting these goals during a period of fiscal restraint requires that the Commission employ two important principles. First, the Commission must be highly selective in choosing which items to support. The requested resources will permit the agency to accomplish the full range of activities described in the justification document, provided no unforeseen needs arise. Second, the Commission must seek to obtain maximum levels of cooperation from outside organizations in order to leverage its resources. The 1991 budget request clearly reflects these two principles.

SELECTIVE ADJUSTMENTS

Perhaps the most important program decision reflected in the budget is to retain as many staff as possible at the expense of other cost categories. Placing such high priority on the retention of staff has proven successful in the past. It is difficult to imagine, for example, achieving the accomplishments cited in the justification document without a full staff complement. Over the past year, fifteen voluntary standards were completed on products as diverse as ATVs, cribs, and pool covers. With the cooperation of the U.S. Customs Service, millions of dollars worth of illegal fireworks, toys, and other products were intercepted at ports throughout the country and prevented from entering the retail distribution chain. Corrective action plans for defective products were negotiated with industry. Safety information on lead-based paint and indoor air quality was developed and provided to consumers. The success of this agency is inextricably linked to the approximately 500 staff who work every day to make these things happen.

While fewer hazard projects are proposed for support in 1991 than in previous years, the Commission believes it has selected the more important ones to be considered. Six projects will involve rulemaking and, depending upon future Commission decisions, several others might also. Work will continue on improving the child-resistance of cigarette lighters, preventing drowning accidents, making playgrounds and playground equipment safer, reexamining permissible levels of lead in paint mixtures, and studying the contribution of consumer products to indoor pollutant levels. To such ongoing efforts will be added new projects addressing fires caused by heat tapes, strangulation hazards of crib toys, and the over one thousand deaths and one million injuries attributable each year to bicycle accidents. These projects are, in the Commission's view, the more pressing safety problems to act upon during fiscal year 1991.

The Commission was equally selective in determining which support costs to reduce in order to retain at least 513 staff contracts, travel, and similar costs will be limited to those expenditures essential to maintaining basic services and program operations during the year. Several contract programs will be reduced by one-half rather than eliminated in order to provide the flexibility necessary to address more critical problems when they arise. Product safety assessments and state and local contracts in support of the Compliance and Enforcement program are two important examples. Careful resource management during the fiscal year will still permit the Commission to enlist contract support when in-house expertise or geographic coverage is lacking. An exception is the proposed elimination of hazard contract funds. In some cases viable alternatives will be possible, such as assigning work to in-house staff. In other cases, project completion will be delayed until contract funds can be made available from other sources. As a result, the Commission is unable to select any fully funded priority projects for 1991.

COOPERATIVE ACTIVITIES

The continued cooperation and support of outside organizations will greatly assist the Commission in meeting its 1991 program goals. Nowhere is this more evident than in the development of voluntary standards. The interest and responsiveness of national standards development organizations contribute substantially to the achievement of safety measures more quickly, and with fewer resources than ever before possible. Moreover, their work, and that of the Commission, does not stop with the approval and publication of a new safety standard. Standards are continually reviewed and revised to ensure that they are sufficiently protective in application as well as in theory. Examples cited in the Overview section of the justification document only begin to identify the many organizations involved and the breadth of their contributions.

Similar reliance on outside organizations can be seen in two of the program improvements proposed for 1991, expansion of the National Electronic Injury Surveillance System (NEISS) and increased Section 15 case-finding efforts. The Commission will add 27 new hospitals to its most important data system in 1991, resulting in a total of 92 facilities reporting a variety of data on product-related injuries every day. Particular hospitals are selected for participation in the system based on geographic location, size, and other factors. Yet their participation is voluntary, and on average each hospital is reimbursed less than $7,000 per year for its efforts. Needless to say, the integrity of NEISS data, which form the basis for nearly every action the Commission takes, is based in large measure on the commitment of participating hospitals to the cause of product safety.

Another important 1991 emphasis will be increasing both the total number and level of potential Section 15 hazard cases brought to the Commission's attention. The agency has been working closely with outside organizations to establish cooperative reporting arrangements. A mechanism has already been established with the Administrative Office of the U.S. Courts to obtain listings of all product liability cases filed within the system. Similar efforts are being explored with state courts, state fire marshals, medical emergency groups, and the National Association of Attorneys General. Their cooperation is expected to result in an increase in the number of serious Section 15 cases brought to the Commission's attention at little or no additional cost to the agency.

Beyond these new efforts, the Commission will continue its successful import surveillance efforts with the U.S. Customs Service. The Commission will also continue to rely on state and local organizations to assist it in compliance and enforcement matters; on the radio, television, and print media to dedicate free air time and print space to public safety messages; and on many other organizations which share the Commission's goals and are willing to work with it to achieve them.

CONCLUSION

In conclusion, the Subcommittee can be assured that the Commission's basic program components will remain viable in 1991, and that the agency will do its best to ensure a successful outcome for each project included in the budget request. While serious reductions will have to be made, the Commission will employ to maximum advantage the several methods available to it to ameliorate their effect. Notable among these is the Commission's reliance on continued strong support from cooperating organizations.

We would be pleased to answer any questions the Subcommittee may have.

Statement of Commissioner Anne Graham

Madam Chair, I am pleased to appear before the Subcommittee today. Last September I wrote the Director of the Office of Management and Budet expressing my support of the 40.3 million dollars and 550 FTEs recommended by the Executive Director.

The Executive Director's proposal was a sound one and would have reinvigorated the Commission. The 40.3 million dollars would have restored four general areas: data collection and analysis, hazard contracts, compliance and enforcement and administrative support. I was especially pleased with the 1.3 million dollars allocated for hazard contracts. These contracts would have supported 11 hazard projects.

When the quorum was restored, the Commission unanimously voted to accept the President's budget and OMB mark of 35.6 million dollars and 513 FTEs. I voted with my colleagues because more than anything else I want the Commission to move foreward with a united and strong front to focus on those projects which will most effectively enhance the safety of the American consumer. The budget is very lean, but I believe that our mission is important and we will be able to fulfill it.

I would be pleased to try to answer any questions.

BUDGET REQUEST

Senator **Mikulski**. Well, once again, I want to thank you, and we look forward to a Commission that now not only has its quorum, but has its quotient of funds necessary to do its job.

I'm very concerned that though the budget has been in a steady state, we've had to absorb pay raises and health benefits. You were hit by sequester. If you've got $300 billion, it's a lot different than if you have $35 million.

Ms. JONES-SMITH. Very much so.

Senator MIKULSKI. So we again want to stay in touch with you as we go through our deliberations. This, then, takes me to really ensuring that there are the resources to do that.

The Consumer Product Safety Commission has never been a lavish agency.

Ms. JONES-SMITH. No; it hasn't.

Senator MIKULSKI. I understand the original request to OMB was for about $40.3 million.

Ms. JONES-SMITH. Yes; it was.

Senator MIKULSKI. It was cut. Could you tell me what the original budget request was to OMB? Having said that, knowing the mission and the mandates, the mandates that we gave you, what is the minimum budget you need to maintain current services and the minimum budget for current services, plus new mandates, if you can? I understand it's a technical question, but it goes to the resources.

Ms. JONES-SMITH. OK. Our original budget request, Madam Chair, was for $40.3 million, and a total of 550 full-time equivalents.

Senator MIKULSKI. I'm sorry; would you repeat that?

Ms. JONES-SMITH. Yes; our original budget request was for $40.3 million and 550 full-time equivalents. Our current budget request is for $35.6 million and 513 full-time equivalents.

The $35.6 million budget is $1.7 million below our current services.

Senator MIKULSKI. Say that again. Do I call you Ms. Smith or Ms. Jones?

Ms. JONES-SMITH. Jones-Smith.

Senator MIKULSKI. Jones-Smith.

Ms. JONES-SMITH. The $35.6 million budget is $1.7 million below our current services.

Senator MIKULSKI. $1.7 million below current services.

Ms. JONES-SMITH. Below our current services. I think I've answered three of your four questions.

NEW MANDATES

Senator MIKULSKI. The next question was, you've got some new mandates—Safe Water Drinking Act—I bet you have mandates you don't even know yet.

Ms. JONES-SMITH. Probably, Madam Chair.

Senator MIKULSKI. See, one of the questions we have here, and we'll get at it this way, is you're given mandates. They authorize the mandate, but they don't often authorize the concomitant funding to do that.

Ms. JONES-SMITH. Right.

Senator MIKULSKI. Given what we estimate some of the new mandates to be, to meet the intent of Congress, what would that take?

If you don't know that, Mr. Murr can furnish that for the record.

Ms. JONES-SMITH. I will ask Mr. Murr to provide some additional information.

Mr. MURR. I'll be happy to give you some more specifics for the record.

We have looked at, for example, new aspects of authorizing legislation. We haven't fully costed those out yet. We were going to wait and see as the picture firmed up a little more. But there may be some implications in the authorizing legislation itself.

One of the areas that you mentioned, Madam Chair, is the Lead Contamination Control Act. Most of the moneys that we will need for that would be spent in fiscal 1990, the year that we're in. At least that's our anticipation of how the program would work out.

There are some other things that have happened to us in the last few years, new regulations to enforce, et cetera. For the most part, we've been able to absorb those within the staff and resources that we have. We would be happy to take a look at the specific provisions in the authorizing legislation and give you some estimates.

Senator MIKULSKI. What I would like to be able to do as a responsible appropriator is, No. 1, take a look at the request, the official request submitted and No. 2, take a look at the budget necessary to maintain current services. Then, if Congress gives you the mandates, we'd like to know what it would cost to do that so that if the money is not appropriated, they cannot hold you accountable. So that's what we'll look forward to getting.

I think that gives us a picture of that. With the changing nature of the risks facing the American public, there is no way that you can have on your staff people who are knowledgeable in every area. You'd have to be in NIH—I mean, we could just go through it. You'd have to be in chemical manufacturing, and so on. Which means that you have to contract out.

Ms. JONES-SMITH. Yes, we do; right.

[The information follows:]

1991 RESOURCE LEVELS

[Dollars in thousands]

	FTE's	Amount
1991 January budget request	513	$35,609
1991 current services level	529	37,327
Additional amounts needed for pending reauthorization bills (as currently proposed as of Apr. 17, 1990):		
H.R. 1762	+103	+5,500
S. 605	+27	+1,500

HAZARD CONTRACTS

Senator MIKULSKI. Now, as I understand it, the proposed budget will not allow the CPSC to fulfill basic mandates and you won't be able to analyze the problem without hazard contracts.

As I understand it, these hazard contracts which pay for outside technical help, which you don't have in-house, have been zeroed out of the budget request.

As I understand it, OMB cut this because it's the only program that can be cut without cutting work-years. Last year, when we were working with the Commission, we restored about $1 million for this program because we felt that it was necessary.

My question, then, is, with the zeroing out, will you have staff resources and technical expertise to compensate for the lack of hazard contracts and will you be able to perform comparable work in-house?

Ms. **Jones-Smith**. There are two parts to this answer, Madam Chair.

Senator **Mikulski**. You know I'm not playing get-ya.

Ms. **Jones-Smith**. No; I understand.

Senator **Mikulski**. If you're willing to take on this responsibility, I mean, we have a responsibility to meet the responsibility.

Ms. **Jones-Smith**. I totally understand, Madam Chair. The hazard contracts do provide an area of technical expertise for the Commission. We looked at it in terms of meeting this $35.6 million mark. We saw it as an area where, if we took it out, first of all, to provide for other areas which we did not feel could come out—for example, our hotline and things like that, which are very necessary—we saw this area as some of the more discretionary activities that we support.

We did eliminate four hazard contracts as a result of the elimination of the contract money. Those projects that we are maintaining for 1991, we do feel we have some expertise on staff that can cover those projects. Certainly, I'm not going to sit here and say that with the hazard contract money those projects could not be advanced more quickly to completion. We could find more of a specific technical variety and input into those projects with the hazard contracts. Certainly, with the hazard contracts, we could better assess some of the problems that we're going to be looking at.

As a base and as a bare minimum, we felt that in this budget, given the projects that we selected with the elimination of those funds, we do have some——

ELIMINATED HAZARD CONTRACTS

Senator **Mikulski**. Could you tell me the four that you eliminated?

Ms. **Jones-Smith**. Yes; we eliminated the projects on furniture flammability, firework evaluation, cords and plugs, and kitchen fires.

If we did have hazard contract money, we would be able to speed up the current hazard projects that we proposed for 1991, and then possibly we'd be able to pick up some of those other projects that we dropped.

So it does impact the speed at which we're able to complete those contracts to a great extent. But we feel that at least within this budget, we do have enough staff on board to keep the projects that we're proposing for 1991 functioning.

QUALITY OF PROJECTS

Senator **Mikulski**. Thank you for giving me those explicit contracts.

How would the lack of hazard contracts affect the completion of projects?

Ms. JONES-SMITH. It's going to delay the completion, I think.

Senator MIKULSKI. Do you think it will affect the quality? This is in no way to minimize your staff.

Ms. JONES-SMITH. Really, I understand. I'm not sure, because I'm not as familiar with the technical aspects. Some of the hazard projects, as you quite rightly put it, Madam Chair, require a very specific, expert, technical level, which may have some impact.

I would like Tom Murr to add any additional information he might have.

Mr. Murr?

Mr. MURR. It very much varies from project to project. There are some projects where without the contract funding, we may not be able to do the technical work at all. There are other cases where we could do it in-house if we were to redirect some of our staff efforts and perhaps drop something else. So that's another possibility we look at.

Then there is another alternative that's possible in some cases, and I'll give you an example of one. For the cigarette lighter project, we had originally estimated the need for $75,000 for a consumer panel study on the acceptance of child-resistant lighters. We're hoping to be able to get some of this information from the industry itself and apply it to our work.

So we try to adapt, if possible, but there will be some cases where the work would be postponed until we have the necessary money. Now, when some aspects of the work must be postponed, we continue to do other parts of the project that can be done in-house, and hopefully, if we find the funding and we look through the course of each year for funds that we can free up from other sources, if that becomes possible, we apply those funds to hazard contracts during the course of the year.

WORK WITH OTHER AGENCIES

Senator MIKULSKI. One of the things that came up in your contract concerns is fire. God knows, when we just think about what happened in New York, I mean, fire is a horrible way to die, and this goes to the cigarette lighter and so on.

But you mentioned kitchen fires. Just refresh my memory and your mission and so on. Can you turn to other Government agencies for advice in this specific interest? For example, we fund FEMA. Now, they're big on nuclear war. We want them to be big on what are the risks most likely affecting American people today.

Most Americans are more likely to die in fires than in a nuclear attack. They have the Fire Academy. They have a great deal of experience. They train firefighters; they know about fires. Is it acceptable within the independence of the agency to turn to another agency for technical assistance?

Ms. JONES-SMITH. At times, the agency has worked with other agencies in technical areas.

We just recently worked, I think, with the Environmental Protection Agency on producing a pamphlet on asbestos in the home, biological pollutants in the home.

So at times, depending on the specific subject area that the Commission is looking at, we do and have worked with other Government agencies.

Senator **Mikulski**. Well, while you're feeling your way, and I'll tell you. The major firefighting programs are at the academy in Emittsburg and offer tremendous expertise.

I just mention that. I might be wrong in that and so on, but I'm trying to help you. Fires in the home are caused by children, appliances, and any number of other things.

Ms. **Jones-Smith**. They're devastating.

Senator **Mikulski**. They're not only devastating, but very often, the people who fight them know how best to prevent them.

Mr. **Murr**. We work very closely with FEMA, NIST, and others. They have a great deal of fire expertise. So there's a lot of cooperation. In fact, the fire community as a whole is a very tight-knit community across the whole country.

Senator **Mikulski**. Yes; they're great. We know that.

Mr. **Murr**. We have a lot of cooperative efforts with local fire marshals and local fire jurisdictions. We have been very successful in getting them to report fires which they believe originated from a consumer product.

So not just on the remedy end, but in identifying problems, there is a great deal of cooperation.

LEAD-BASED PAINT

Senator **Mikulski**. I think we need to note that for the record, that the agency has reached out to expertise in agencies and that should be recognized. So the problems with contracts doesn't mean that you haven't tried to find nonfee-costing advice.

This, then, takes me to the lead-based paint. I'm sure that every Commissioner and staff is keenly interested. You heard the previous testimony.

Ms. **Jones-Smith**. Yes; I did.

Senator **Mikulski**. Would you comment on what the Consumer Product Safety Agency could do, intends to do, and could you see yourselves as the ones writing a booklet? You wouldn't have the funds to publish and distribute it. Am I correct? Could you just tell us what you could do?

Ms. **Jones-Smith**. First let me tell you some of the things that we have done.

Senator **Mikulski**. I know that you're trying to learn a lot. So understand, this is not a quiz here.

Ms. **Jones-Smith**. I understand, Madam Chair.

Senator **Mikulski**. They ask me these questions, too. At my town hall meetings, you know.

Ms. **Jones-Smith**. Madam Chair, I understand. We're talking about a little over 90 days and certainly, I'm here to do what I can.

Senator **Mikulski**. You've been through it all. We ought to give you a chevron, kiss you on both cheeks, or something.

Ms. **Jones-Smith**. The staff has been incredibly helpful. But let me just give you some idea of what some of the things are that we have been doing with lead-based paint.

The CPSC has been reviewing our current standards for lead in paint, to determine whether they're sufficiently protective. The staff is participating now with the Environmental Protection Agency and with HUD in their effort to determine appropriate guidelines for abatement of lead-based paint with regard to housing.

CPSC has recently issued a safety alert to consumers on the hazards of removal of lead-based paint. We are working with Underwriters Laboratory to assure that the heat guns and other appliances that remove the paint provide adequate warnings regarding the hazards of removal of paint.

Our staff is also participating in a HUD task force. Guidelines are being reviewed.

Senator **MIKULSKI**. They're due out April 1.

Ms. **JONES-SMITH**. Yes; there is an HHS strategy on lead poisoning, and we're also participating in that. We're meeting with EPA on—this new asbestos booklet. This is something different.

Senator **MIKULSKI**. Who chairs that HUD task force?

Ms. **JONES-SMITH**. Mr. Murr, are you familiar with that? We're not sure. I think HUD's the lead on this. I'm not sure who chairs, the specific individual.

Senator **MIKULSKI**. Do we know who chairs it, or at what level?

STAFF. I believe it's the Assistant Secretary for Policy Development and Research.

Ms. **JONES-SMITH**. With regard to your question, Madam Chair, about a booklet, once the work is completed with Environmental Protection and HUD on the abatement issue, then we would be looking at production of a guide.

Senator **MIKULSKI**. Well, thank you.

Ms. Jones-Smith, there's just lots of questions I could ask you. But we think you need to get started and we think we need to help you get funded.

We're going to have some questions that we're going to submit for the record just to make sure we've got the documentation we need.

BUDGET CONSIDERATIONS

Ms. Dawson, is there anything in response to the questions I asked? I know that you have not been a silent partner in the Commission. I wanted to give you an opportunity to make any comments that you'd like, or make any additions to the conversation we've had here.

Ms. **DAWSON**. I appreciate that, Madam Chair. I just want to say that our new Chairman is doing very well here. In fact, I don't think I could have improved upon her answers at all.

In terms of the overall level of funding, however, as you probably are aware, we all struggled with this issue. When the original request of $40.3 million was proposed, that was during a period when we did not have a quorum. So that proposal was made by staff.

At the time that the OMB mark came back, we did have our quorum and we were able to consider this.

One thing we had to look at very carefully, as a possible alternative to eliminating hazard contracts, was whether or not to consider reducing staff. Of course, that's a very difficult alternative to face.

I argued at the time that we should at least not fill vacancies, in order to provide some funding for our hazard contracts. But ultimately, the Commission, as a collegial body, determined that this proposal was the budget that we could support.

So it's clear that we must be very imaginative; it is a challenge to try to fulfill our mandate at these levels.

But, given the fact that we've learned over the years to live within these lean budgets, quite frankly, in preparing for today's hearing, I was really struck by the amount of things that we've been able to accomplish. We very seldom get credit for the good things that we do, but if you really look at the record, you will see we've been able to accomplish quite a bit.

So with this budget we've got to be more creative, and, as the Chairman already said, we must target those areas in which we can really be effective.

Senator MIKULSKI. Well, Ms. Dawson, I thank you for your comments. I also understand you're another Marylander.

Is that right?

Ms. DAWSON. Right; I was.

Senator MIKULSKI. Where?

Ms. DAWSON. I was from Easton.

Senator MIKULSKI. Easton; our Eastern Shore.

Ms. DAWSON. Right.

WRAPUP

Senator MIKULSKI. First of all, I thank you for those comments. This goes back to the fact that during the time when there were vacancies at the commissioner level, I think that the professional staff at the agency was superb. They knew what their job was. They knew what those individual projects were in the area, the consumer projects, and they kept at it.

We think that should be recognized because they were the ones that kept it going.

We now know that with the full quorum, you're going to get a handle on it and we're going to work with you and Mr. Murr and your team, as we go through our appropriations process.

We're a little bit tighter this year. No gimmicks. No gimmicks in the taxes. But we're going to see what we can do.

Ms. JONES-SMITH. Madam Chair, I'd like to thank you for your support of this agency, and if we can ever provide you with any information or if you have any questions, please feel free to call on us.

Senator MIKULSKI. You keep doing the job we ask you to do and keep getting the information out to the consumer, and the people who have to make the corrections to make those products safer.

That's all I ask you to do.

Ms. JONES-SMITH. Thank you very much, Madam Chair.

Senator MIKULSKI. Thank you. Let me shake your hand.

Ms. JONES-SMITH. Thank you.

Senator MIKULSKI. Thank you, Ms. Dawson.

SUBCOMMITTEE RECESS

That concludes today's hearing. The subcommittee will stand in recess until March 29, at 10 a.m., when we're going to take testimony from the National Science Foundation.

[Whereupon, at 12:25 p.m., Tuesday, March 27, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, APRIL 5, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara Mikulski (chairman) presiding.

Present: Senators Mikulski, Garn, and Kerrey.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATEMENT OF JAMES McNEILL, ASSOCIATE DIRECTOR, EXTERNAL AFFAIRS DIRECTORATE

ACCOMPANIED BY:

HAROLD T. DURYEE, ADMINISTRATOR, FEDERAL INSURANCE ADMINISTRATION
ANTONIO LOPEZ, ASSOCIATE DIRECTOR FOR NATIONAL PREPAREDNESS
GRANT C. PETERSON, ASSOCIATE DIRECTOR FOR STATE AND LOCAL PROGRAMS AND SUPPORT
GARY J. BARARD, ACTING INSPECTOR GENERAL
EDWARD M. WALL, ACTING ADMINISTRATOR, U.S. FIRE ADMINISTRATION
DAVE McLOUGHLIN, DIRECTOR, OFFICE OF TRAINING
WILLIAM C. TIDBALL, CHIEF OF STAFF
GEORGE H. ORRELL, COMPTROLLER
GEORGE W. WATSON, ACTING GENERAL COUNSEL
BARBARA A. JACOBIK, BUDGET OFFICER
GREGG CHAPPELL, CHAIRMAN, NATIONAL BOARD, EMERGENCY FOOD AND SHELTER PROGRAM

BUDGET REQUEST

Senator MIKULSKI. The subcommittee will come to order.

Today, we'll consider the fiscal year 1991 budget request of the Federal Emergency Management Agency.

FEMA is requesting a fiscal year 1991 appropriation of just over $819 million. This is down substantially from last year, when FEMA received a large supplemental appropriation to respond to Hurricane Hugo and the Loma Prieta earthquake.

Within the agency's operating programs, however, the 1991 budget represents a 2-percent increase over last year's appropriation, a level still insufficient to keep pace with inflation.

Few, if any, Federal agencies oversee as wide a range of activities as does FEMA. It's virtually impossible to cover them all in one hearing, so we're going to ask some highlight questions, and then some for the record.

There are several major areas that I want to address today.

The first of which was lessons that FEMA had learned in providing disaster relief from last year's two catastrophes; the earthquake and the hurricane. FEMA was heavily criticized for its response to Hurricane Hugo, and it is my hope that we can shed some light on its role, quality, and performance.

At the same time, it received very good marks for the way it responded to the earthquake. Either way, out of every tragedy, we hope that there's lessons learned, so that if we ever face it again, we're even more ready for duty.

Second, how does FEMA intend to respond to changing world conditions that perhaps could alter its mission? The central and founding mission of FEMA was originally a civil defense approach from a nuclear attack. With the lessened, but not eliminated, threat, and yet other threats in the world and to our country, how do we see us organizing the mission of FEMA, and, therefore, appropriate funding.

Third, the question will be FEMA's proposing to reduce its homeless assistance effort, the Emergency Food and Shelter Program. This program, I might add, is widely praised by all who are involved in it. It is considered one of the most effective tools for meeting crisis needs.

Fourth, the status of the Flood Insurance Program. Although the program has been financially self-sufficient of late, it carries a tremendous potential liability which should not be ignored.

Finally, we'll again look at FEMA's future plans for Emmitsburg.

We're sorry to hear of the illness of Mr. Morris, FEMA's Acting Director, but we welcome his substitute, Mr. McNeill, the Associate Director of FEMA's External Affairs.

Mr. McNeill, we'd like to welcome you.

I'm going to ask Senator Garn if he has any opening statements, and then we'll move into our discussion.

Senator GARN. Madam Chair, I do not have an opening statement.

Senator MIKULSKI. OK. Then we'll go right to the questions.

Senator Grassley wanted me to inform you, Mr. McNeill, and for the record, that he's absent due to the death of his brother-in-law, and he has questions and answers for the record. I might add that Senator Grassley is one of our most faithful people in attending.

Mr. McNeill, why don't you go ahead and tell us what money you want and how you'd spend it, and let's go from there.

INTRODUCTION OF FEMA WITNESSES

Mr. MCNEILL. That's very easy, Madam Chair.

Madam Chair and Senator Garn, we are delighted to have the opportunity to present our fiscal 1991 budget plans.

Before I give you some summary comments, if you don't mind, I'd like to introduce my colleagues who are with me.

To my immediate left is Mr. Grant Peterson, who's the Associate Director of the State and Local Programs Support Directorate.

To his left is Mr. Antonio Lopez, who is the Associate Director of the National Preparedness Directorate.

On the far end of the table is Mr. Dave McLoughlin, who is the Director of the Office of Training.

To my immediate right is Mr. Hal Duryee, who is the Federal Insurance Administrator.

To his right is Mr. Ed Wall, who is the Deputy Administrator of the U.S. Fire Administration and Acting Administrator of the U.S. Fire Administration.

Sitting behind Mr. Wall is Mr. Orrell, who is our Comptroller.

Ms. Barbara Jacobik, who is sitting to his left, is our Budget Officer for FEMA.

Immediately in back of me, is Mr. Bill Tidball, who is the Chief of Staff of FEMA.

To his left is Mr. Gregg Chappell, who is the Chairman of the National Board of the Emergency Food and Shelter Program.

To his left is the Acting General Counsel of FEMA, Mr. George Watson.

Mr. Gary Barard is to Mr. Watson's left. He is the Acting Inspector General.

That's it. Those are our chief witnesses.

Senator MIKULSKI. Well, I hope FEMA doesn't get a 911 call. Everybody's over here.

Mr. McNEILL. That's right.

Senator MIKULSKI. Mr. McNeill, why don't you proceed with your testimony.

SUMMARY STATEMENT

Mr. McNEILL. Mr. Morris has been Deputy Director of the Federal Emergency Management Agency [FEMA] since November 1983, and the Acting Director of FEMA since June 1989. He had planned to be here today but, unfortunately, he is not able to do so because of illness. He has asked that I submit his detailed statement for the record, which I will, and on his behalf, that I make a few summary comments that will highlight some of FEMA's accomplishments in fiscal years 1989 and 1990, and provide you with some perspective on FEMA's priorities for 1991 and beyond.

FISCAL YEAR 1990

Fiscal year 1990 has been difficult for all of us, with continuing resolutions complicated by uncertainty over Gramm-Rudman and how that would affect our appropriations. Of course, the agency was very busy coping with the unprecedented number of very large disasters, virtually simultaneously.

We would like to thank the subcommittee for enduring the development of two operating plans, and for your approval of the second. You will find that we have made the changes and corrections that you have requested. We have completed our internal allocation of funds to program managers, both at headquarters and in the field, in our regions. We are managing within our resources.

DISASTER CHALLENGES IN 1989

In looking at some of the fiscal 1989-90 highlights, obviously, the autumn of 1989 will always be remembered for the challenges the agency confronted in responding to Hurricane Hugo and the Loma Prieta earthquake in California. We believe that the agency's response, under the circumstances, was excellent. We note and appreciate Congress' role in enabling us to respond. Congress acted swiftly to provide the necessary funding for the recovery effort. It was a good example of how the partnership between the executive and legislative branches of Government can work quickly to provide necessary services to the people we serve.

We would also like to take this public opportunity to thank the employees of FEMA, both in Washington and in the regions. They persevered through some criticism from several corners, and provided assistance to those thousands of needy disaster victims. We continue to do so.

As an agency, we have endured and learned a lot this past year, and we are already planning on how to turn these lessons learned into improved program delivery.

ADEQUACY OF SALARIES AND BENEFITS

In turning to FEMA's 1991 priorities, throughout the process of developing the fiscal year 1991 budget, FEMA's No. 1 priority has been ensuring that there are adequate salaries and expenses funds to support the work-years requested to carry out our mission. People remain FEMA's real essence. FEMA's success is not measured by a specific exercise, nor by a response to any given disaster, but rather by its capability not only to prepare the Nation for severe crisis situations, but to also lead the national response to such crises in order to minimize the loss of life and property. This requires an experienced, professional corps of people. To further emphasize by the priority that we place on having adequate funds to support our people, let me explain the tradeoffs that we made during the development of our 1991 budget.

FEMA chose to trade $1 in emergency management planning and assistance [EMPA] budget authority allowance for 61 cents in salaries and expenses [S&E] allowance, notably in the civil defense and in the Radiological Emergency Preparedness Program areas. This 61 cents for $1 trade was necessary because the trade had to remain outlay neutral and, at the same time, be within our overall budget allowance. As we are sure that you can agree, this was not an easy choice, but it really was the only choice, given our priorities.

EARTHQUAKE

As far as the earthquake program is concerned, and as you know, FEMA is the lead agency in earthquake planning and response. Congress has provided us with this responsibility. We take it very seriously and we are prepared to perform it well. Our actual response to the Loma Prieta earthquake and our coordination and direction of the Response 89 earthquake exercise are positive successes, and are illustrative of our work in this area. Are we, as a nation, prepared to deal with a catastrophic earthquake today? Probably not. But with some program changes resulting from lessons learned from our recent experiences in coping with large disasters, and with some of the initiatives proposed in this budget request, we will be in a better position to respond in the near future.

DISASTER ASSISTANCE

As far as disaster assistance is concerned, it remains an area of very high priority. It also remains an area of very high visibility. An assessment will be completed shortly that provides an evaluation of our recent response efforts. This assessment may or may not result in a proposal for legislative changes. We are not now, and as many perceive, the 911 for the Federal Government, and we do not have the authority to become such an agency.

CIVIL DEFENSE AND FEDERAL PREPAREDNESS

In looking at the civil defense and the Federal preparedness parts of our 1991 budget, we recognize that the political situation in Eastern Europe and the Soviet Union has been changing rapidly, even in the relatively short time since the preparation and submission of this budget. However, we urge that you not automatically interpret these political reforms as a reason to reduce the funding for two of our very important programs; namely, civil defense and Federal preparedness.

First of all, we would hope that we do not dismantle or allow deterioration of the infrastructure that has been painstakingly built over the years. We should not do that until we are reasonably sure that these political changes are, in fact, permanent.

Second, we would remind you that capabilities developed under both the civil defense and Federal preparedness programs have applicability to all emergencies. In other words, their utility and value are based on their dual use, whether the disaster is caused by nature, by technology, or by a nuclear weapon.

For example, evacuation plans developed with civil defense funding have been successfully used to limit the loss of life from hurricanes and floods. This was the case in the evacuation of South Carolina during Hugo. The integrated response between Federal, State, and local officials during the California earthquake is due, in part, to the planning and preparedness capabilities developed through the civil defense program. Similarly, the coordination and communication support provided to the Virgin Islands after Hurricane Hugo kept the resultant civil disturbance from escalating into a far greater problem.

FEMA will continue to work within the administration to reshape our programs and to provide our continued integration of national security and nondefense related activities.

CLOSING COMMENTS

In my closing remarks, I would like to point out that Mr. Morris has been at FEMA for a little over 6 years, now, and that is a good portion of its history as an agency. During this period, he has witnessed some tumultuous times in the early years when FEMA's response and planning were sometimes fragmented, partially as a result of the way the agency was formed—and when criticism of FEMA for certain management practices sometimes overshadowed the work that the agency did.

He hopes that the subcommittee shares his view that FEMA has, in fact, developed, matured, and become a more credible organization within the Federal Government. He thinks that this is illustrated by the fact that the Nation's people do look to us to provide emergency response in disasters—sometimes for more than we can provide. Even within the Federal Government, FEMA has acknowledged expertise in such areas as evacuation planning around hazardous sites——

Senator **Mikulski**. Mr. McNeill?

Mr. **McNeill**. Yes, Ma'am?

Senator **Mikulski**. If you would hold a second.

Those bells and zings and so on apprise us that there's final passage on the vocational ed bill. I want you to complete your testimony, even though I won't hear those charismatic and dazzling closing sentences. Then, subject to you completing your statement, we'll stand in recess until either Senator Garn or I return.

But, why don't you just keep on wowing my staff, and I'll be right back.

Mr. **McNeill**. Fine, Madam Chair.

Even within the Federal Government, FEMA has acknowledged expertise in such areas as evacuation planning around hazardous sites, as evidenced by the number of agencies who have given us a role in helping them perform their missions.

We hope that the agency can work constructively with your staff to improve our budget. In our view, FEMA's budget is still too long, too detailed, and too complex for the size of the agency and for the level of resources being considered. Over the next 6 months, we will request the assistance of your staff in working with us and the House and OMB in restructuring our budget to provide for a better articulation of FEMA programs.

Madam Chair, I would like to thank you for allowing me the opportunity to share these comments that Mr. Morris wanted very much to have made in person.

PREPARED STATEMENTS

My colleagues and I will be pleased to answer your questions. I have asked them not to be reluctant to speak up when they have some important comments on a matter under discussion, and I have also asked them to please avoid using acronyms.

[The statements follow:]

STATEMENT OF JIM MCNEILL

Madam Chair and Members of the subcommittee, I would like to introduce myself; my name is Jim McNeill, and I am an Associate Director of FEMA and am sitting in for Mr. Morris.

INTRODUCTION

Bob Morris has been Deputy Director of the Federal Emergency Management Agency—FEMA—since November, 1983 and the Acting Director of FEMA since June, 1989. He had planned to be here today, but unfortunately, he is not able to do so because of illness. He has asked that I submit his detailed statement for the record and, on his behalf, that I make a few summary comments that will highlight some of FEMA's accomplishments in fiscal years 1989 and 1990 and provide you with his perspective on FEMA's priorities for 1991 and beyond.

FISCAL YEAR 1990

Fiscal year 1990 has been difficult for us all with Continuing Resolutions complicated by uncertainty over how Gramm-Rudman would ultimately affect our appropriations. And, of course, the Agency was very busy coping with an unprecedented number of very large disasters, virtually simultaneously. We would like to thank the subcommittee for enduring the development of two operating plans and for your approval of the second. You will find that we have made the changes and corrections that you requested, completed our internal allocation of funds to program managers both at headquarters and in the regions, and are managing within our resources.

FISCAL YEAR 1989-1990 HIGHLIGHTS

The autumn of 1989 will always be remembered for the challenges the Agency confronted in responding to Hurricane Hugo and the Lima Prieta Earthquake in California. We believe that the Agency's response under the circumstances was excellent, and we note and appreciate the Congress' role in enabling us to respond. Congress acted swiftly to provide the necessary funding for the recovery effort. It was a good example of how the partnership between the executive and legislative branches of government can work quickly to provide necessary services to the people we serve. We would also like to take this public opportunity to thank the employees of FEMA, both in Washington and in the Regions, who persevered through the criticism from some corners and provided assistance to those thousands of needy disaster victims—and continue to do so. As an Agency, we have endured and learned a lot this past year, and we are already planning how to turn lessons learned into improved program delivery.

FISCAL YEAR 1991 PRIORITIES

Salaries and expenses.—Throughout the process of developing the fiscal year 1991 budget, FEMA's number one priority has been ensuring that there are adequate Salaries and Expenses funds to support the workyears requested to carry out our mission. People remain FEMA's real essence. FEMA's success is not measured by a specific exercise, or response to a given disaster, but rather by its capability to prepare the Nation for and to lead national response to, severe crisis situations in order to minimize the loss of life and property. This requires an experienced, professional corps of people. To further emphasize the priority we place on having adequate funds to support our people, let me explain the tradeoffs we made during the development of our 1991 budget. FEMA chose to trade $1.00 in Emergency Management Planning and Assistance (EMPA) budget authority allowance for 61 cents in Salaries and Expenses (S&E) allowance, notably in the Civil Defense and Radiological Emergency Preparedness program areas. This 61 cents for a dollar trade was necessary because the trade had to remain outlay neutral and within our overall budget allowance. As we are sure that you can agree, this was not an easy choice—but it really was the only choice, given our priorities.

Earthquake.—FEMA is the lead Agency in earthquake planning and response. Congress has provided us with this responsibility, we take it very seriously, and we are prepared to perform it well. Our actual response to the Loma Prieta earthquake and our coordination and direction of the RESPONSE 89 earthquake exercise are positive successes and illustrative of our work in this area. Are we as a Nation prepared to deal with a catastrophic earthquake today? Probably not—but with some program changes resulting from lessons learned from our recent experiences in coping with large disasters and some of the initiatives proposed in this budget request, we will be in a better position in the near future to do so.

Disaster assistance.—Disaster assistance is an area of high priority—as well as high visibility. An assessment will be completed shortly that provides an evaluation of our recent response efforts. This assessment may or may not result in a proposal for legislative changes. We are not now, as many perceive, the "911" for the federal government and do not have the authority to become such an agency.

Civil Defense and Federal Preparedness.—The political situation in Eastern Europe and the Soviet Union has been changing rapidly—even in the relatively short time since the preparation and submission of this budget. However, we urge that you not automatically interpret these political reforms as a reason to reduce funding for two of our very important programs—namely, Civil Defense and Federal Preparedness. First of all, we would hope that we do not dismantle or allow deterioration of the infrastructure that has been painstakingly built over the years until we are reasonably sure that these political changes are permanent. Second, we would remind you that capabilities developed under both the Civil Defense and Federal Preparedness programs have applicability to all emergencies. In other words, their utility and value are based on their "dual use" whether the disaster is caused by nature, technology or a nuclear weapon. Evacuation plans developed with Civil Defense funding have been successfully used to limit the loss of life from hurricanes and floods. The integrated response between Federal, state, and local officials during the California Earthquake is due in part to the planning and preparedness capabilities developed through the Civil Defense program. Similarly, the coordination and communication support provided to the Virgin Islands after Hurricane Hugo kept the resultant civil disturbance from escalating into a far greater problem. We will continue to work within the Administration to reshape our programs and provide for continued integration of national security and non-defense related activities.

CLOSING REMARKS

Mr. Morris has been at FEMA for a little over six years now—for a good portion of its history as an Agency. During this period, he has witnessed some tumultuous times in the earlier years when FEMA's responses and planning were sometimes fragmented—partially as a result of the way that the agency was formed—and when criticism of FEMA for certain management practices sometimes overshadowed the work that FEMA did. He hopes that the Subcommittee shares his view that FEMA has developed, matured, and become a more creditable organization within the federal government. He thinks that this is illustrated by the fact that the nation's people do look to us to provide emergency responses in disasters—sometimes for more than we can provide. Even within the federal government, FEMA has acknowledged expertise in such areas as evacuation planning around hazardous sites as evidenced by the number of agencies who have given us a role in helping them perform their missions.

We hope that the Agency can work constructively with your staff to improve our budget. In our view, the budget is still too long, too detailed, and too complex for the size of our Agency and the level of resources being considered. Over the next six months, we will request the assistance of your staff in working with us, the House, and OMB in restructuring our budget to provide for a better articulation of our programs.

Thank you for allowing me the opportunity to share these comments that Mr. Morris would like very much to have made in person. My staff and I will be pleased to answer your questions.

Statement of Robert H. Morris

Madam Chair and members of the subcommittee, we appear before you today to present testimony on the budget request for the Federal Emergency Management Agency (FEMA) for fiscal year 1991.

The total requested for all appropriations is $819,272,000. The outlay request is $1,623,827,000, and FEMA's full-time equivalent needs are estimated at 2,713. Compared to 1990, requested appropriations decrease by $924,048,000, outlays decrease by $122,687,000, and full-time equivalents increase by 49.

The 1991 budget request for FEMA's operating accounts is $420,376,000, an increase of $8,161,000 from 1990. Roughly 60 percent of this increase is for Salaries and Expenses. The increase includes funds to support FEMA's full complement of requested workyears, to provide for specific initiatives such as earthquake preparedness, and to partially offset uncontrollable cost increases, including GSA rent increases, the three-month 1991 cost of the 1990 pay increase, and half the estimated 1991 costs of 1991 pay increases for GS, GM, SES, and Executive level employees.

The 1991 request contains three minor budget structure changes at the activity level. FEMA proposes to group the Hazardous Materials (HAZMAT) program with the Radiological Emergency Preparedness Program into the budget activity Technological Hazards. This restructure is based on commonality of content, and will not affect the identity of either program. The budget activity previously named Earthquake and Other Hazards no longer includes the HAZMAT program, and has been renamed National Earthquake Program and Other Hazards to highlight FEMA's lead agency role in the National Earthquake Hazards Reduction Program. The two budget activities funded by transfer of balances from the National Flood Insurance Fund have been combined into one activity, Flood Insurance and Mitigation, again with no impact on program identity.

OVERVIEW

A first glance at FEMA's 1991 request for appropriations compared to the 1990 appropriated level would startle anyone not familiar with the extraordinary demands placed on the Disaster Relief Fund last fall by Hurricane Hugo and the Loma Prieta earthquake. The 1991 request for Disaster Relief is based on an average year of disaster activity. The rather substantial reduction in FEMA's 1991 request for appropriations stems mainly from the elimination of the one-time, fiscal year 1990 one billion dollar supplemental that was appropriated to FEMA following the Loma Prieta earthquake.

Excluding the Disaster Relief Fund, FEMA's 1991 request maintains most programs at or somewhat below the 1990 level. Modest, specific increases in Civil Defense, the National Earthquake Program, Management and Administration, and the Office of the Inspector General are partially offset by decreases in Federal Preparedness, Training and Fire Programs, and the Emergency Food and Shelter Program.

Increases in both staff and funding in the National Earthquake Program will expand FEMA's activities under the National Earthquake Hazards Reduction Plan, including the development of a program to identify, train, equip, and mobilize model search and rescue teams at the State and local level, for response to extraordinary disasters. In Civil Defense, increases focus on provision of warning and communications equipment to States and localities, and on population protection. The request continues student travel and lodging stipends at the existing level and increases funding for the expansion of arson control initiatives and for research and development on various firefighter health and safety issues.

As an offset to some of these modest increases, the 1991 request reflects decreases in Training and Fire Programs for the termination of funding for SARA Title III training grants as well as a decrease in the classified Government Preparedness Programs.

In keeping with the Administration's emphasis on the collection of user fees, the FEMA request proposes user fees in three areas. The full recoupment of expenses of the Radiological Emergency Preparedness (REP) program from the utility companies serviced in the licensing process is proposed, as is the recoupment of the costs of the Flood Insurance and Mitigation programs from policyholders. A partial user fee is proposed for students at the National Emergency Training Center, who would pay a student registration fee of $25 a week. Revenues from the student fees and REP costs are intended to be deposited directly in the Treasury; revenues from the Flood programs are intended to be deposited in the National Flood Insurance Fund.

CIVIL DEFENSE

FEMA requests $154,117,000, an increase of $4,820,000 over 1990, for this activity in order to support the implementation of an integrated, all-hazards preparedness and response capability at the Federal, State, and local levels of government. In 1991, the primary use of the funds requested will be for grants to the States to continue the efforts initiated in 1989 for the development of a base survivable crisis management capability at the State and local levels. This integrated, base-line capability includes communications and hardware systems, plans, and trained people in emergency management organizations to prepare for and respond to all major emergencies.

In accordance with the requirements of the Federal Civil Defense Act of 1950, as amended, this all-hazards approach is based on an integrated program that: recognizes the unique characteristics of all emergencies, including natural disasters, technological hazards, and attack; supports capability building at all levels; relies on the effective use of crisis management systems; and uses tests and exercises on a recurring basis to ensure that base-line, in-place systems are workable and sustainable under extreme conditions, including nuclear attack. This integrated, all-hazards approach is the cornerstone of the Civil Defense program in the 1991 request.

I would like to point out at this time that the Administration will be undertaking a major policy review of the civil defense program to determine what changes may need to be made in light of the rapidly changing world situation.

NATIONAL EARTHQUAKE PROGRAM AND OTHER HAZARDS

The request for the National Earthquake Program and Other Hazards activity is $16,050,000 and 58 workyears, an increase of $4,366,000 from the 1990 current estimate. This activity supports FEMA's statutory responsibilities as lead agency for the National Earthquake Hazards Reduction Program and encompasses programs which work with State and local governments, volunteer and educational organizations and the private sector to reduce the potential loss of life and property from earthquakes, hurricanes, unsafe dams and related natural hazards. This is accomplished through comprehensive programs of mitigation, preparedness and response planning and public education.

Both Hurricane Hugo and the Loma Prieta earthquake illustrated the benefits and continuing need for these programs. Planning efforts supported under the Hurricane program led to the successful evacuation of thousands of residents prior to Hurricane Hugo, and the earthquake mitigation and preparedness efforts undertaken with FEMA support in the San Francisco Bay area played a significant role in reducing the loss of life and property from building collapses in the Loma Prieta earthquake last October.

In 1991, these programs will emphasize: (1) implementation of state of the art mitigation techniques; (2) enhanced preparedness and response capability at the State and local levels; and (3) incorporation of lessons learned from Hugo and Loma Prieta into ongoing program activities. One such lesson will result in a major initiative to enhance the Federal government's urban search and rescue capability.

TECHNOLOGICAL HAZARDS

Technological Hazards is a new budget activity for 1991, combining the Radiological Emergency Preparedness and Hazardous Materials Programs. The request for Technological Hazards is $11,262,000 and 117 workyears, a net increase of $156,000 over 1990. This activity supports FEMA's effort to provide technical and financial assistance in developing/fostering Federal, State, and local capabilities to variously prepare for, respond to, and mitigate the consequences of technological emergencies.

In 1991, under its Radiological Emergency Preparedness Program (REP), FEMA will continue to assess the adequacy of State, local, and utility emergency planning and preparedness around fixed nuclear power facilities. The Administration intends to propose legislation to permit collection of fees from utility licensees to recover the full cost of expenses associated with the REP program. The fees to be collected would be reimbursed to the Treasury and therefore would not affect this appropriation request.

Under the Hazardous Materials Program, FEMA will emphasize development of a comprehensive exercise program with which to assess emergency planning and response capabilities at the State and local level.

FEDERAL PREPAREDNESS

The request for Federal Preparedness is $160,275,000 and 977 workyears, a net decrease of $1,221,000 from 1990. The major portion of this decrease is in the Government Preparedness Program.

This request continues operation of the Emergency Information and Coordination Center. This program provides national-level emergency managers with data, communications support, and facilities to direct the national response to a wide range of emergencies.

In addition, this request provides funding for the Mobilization Preparedness and the Federal Readiness and Coordination programs. The Mobilization Preparedness Program ensures that Federal departments and agencies have in place plans, systems, procedures and resources to support national emergency mobilization, including civil sector support to a military mobilization. Under the Federal Readiness and Coordination program, FEMA provides guidance to the Federal departments and agencies to prepare for and effectively respond to national security emergencies; manages the Federal response and recovery in the event of such emergencies; and plans, coordinates, and conducts domestic emergency and national security exercises.

TRAINING AND FIRE PROGRAMS

The request for Training and Fire Programs is $21,542,000 and 109 workyears, a net decrease of $2,611,000 and 3 workyears. The reduction is based primarily on the termination of funding for SARA Title III training.

United States Fire Administration.—In the 1991 request, funds are provided for the following Federal level activities: the residential sprinkler demonstration project; the undertaking of new fire service management initiatives; achieving a closer working relationship between the fire service and public management; continuation of public/private partnership efforts; studying the adequacy of fire apparatus operator training; additional research to develop superior protective clothing, tools and equipment to allow firefighters to operate more safely and efficiently in emergencies; identification of the special needs and precautions associated with AIDS; continuation and expansion of the National Fire Incident Reporting System (NFIRS); and analysis of selected fire department operations.

The 1991 request proposes an increase for arson control initiatives, particularly the community based programs and the juvenile firesetter project, as well as technology research related to residential sprinklers. In addition, the increase provides for research and development efforts on the varied problems facing the fire service such as response to situations created by large scale disasters, improvements in tools and protective clothing to make firefighting safer for the firefighter, and protection of personnel from communicable diseases.

User Fee for Training.—For 1991, FEMA continues the Administration's policy initiative to increase State, local, and volunteer organizations' investment in Federal programs which benefit them, by proposing a nominal student registration fee. Under the 1991 request, State and local governments and volunteer organizations will pay a student registration fee of $25 per week or any portion of a week for each student. Currently, a student's sponsoring organization pays for the Student's meals, ground transportation at the point of departure, and, where necessary, the salary and benefit costs of replacement personnel. The Federal government currently pays—and will continue to pay—all other costs of the on-campus resident program at Emmitsburg including costs of student travel to NETC, lodging, faculty and staff, course materials, course development and delivery, site administration, etc. The proposed fee will partially defray these costs.

MANAGEMENT AND ADMINISTRATION

The request for Management and Administration is $45,243,000 and 467 workyears, a net increase of $2,261,000 and 3 workyears from the 1990 current estimate. The net increase in this activity includes increases to enhance legal activities in the areas of subrogation and support to the Inspector General, to improve the Agency's financial management systems, to remove architectural barriers to the disabled, to fund GSA rent increases, and to implement a drug-testing program.

INSPECTOR GENERAL

In 1991, FEMA is requesting $3,905,000 and 60 workyears for Inspector General activities, an increase of $1,342,000 and 13 workyears over 1990. This level of resources will provide the agency with increased audit and investigative coverage of its programs and operations and additional resources to meet other requirements of the Inspector General Act.

NATIONAL FLOOD INSURANCE FUND

In 1991, FEMA's National Flood Insurance Program will remain self-supporting for the historic average loss year. To date, this effort has saved the taxpayers $1.7 billion. Since 1986, the National Flood Insurance Fund has additionally supported the Flood Plain Management Program and the administrative costs associated with the National Flood Insurance Program. This has amounted to a total transfer of $262,186,000 through 1990.

The Housing and Community Development Act of 1987 (Public Law 100-242) authorized a ten per cent increase in premiums in both 1988 and 1989. No rate increase has been required since 1988, and none is planned for 1991. The current rate structure, however, does not provide for catastrophic losses or for the increased benefits available under Section 544 of Public Law 100-242 ("Upton-Jones" provisions).

Should there be any significant increase in claims as a result of this provision, rate increases may be necessary to maintain the program's self-supporting status.

In 1989, the National Flood Insurance Program's policy base increased by nearly 100,000 policies or nearly 5 percent, an indicator of the success of the partnership with the private insurance industry. FEMA will continue to work with the private insurance industry through the Write-Your-Own program, as the most effective means of promoting the sale of flood insurance policies, providing improved services to insurance agents and brokers, and improved claims services to policy holders should a catastrophic flooding event occur. At the end of fiscal year 1989, over 80 companies were actively writing in the program, representing almost 1,800,000 policies, or 83 percent of total policies.

NATIONAL INSURANCE DEVELOPMENT FUND

FEMA supports the termination of this program when its current authorization expires on September 30, 1991. Through 1990 approximately $1,100,000 per month of taxpayer subsidy will be required to support the program's fewer than 25,000 policies, of which 86 percent are in only five States. FEMA will continue its efforts to make the program more efficient by seeking rate increases to cover losses and expenses.

DISASTER RELIEF

The 1990 request of $270 million for the Disaster Relief Fund reflects an expected return to a normal year of disaster activity following the unprecedented disasters and obligations which resulted from Hurricane Hugo and the Loma Prieta earthquake. Supplemental appropriations of $1.108 billion and $1.1 billion were approved in September 1989 and October 1989, respectively, to address the combined effects of these events. There will be a continuing high level of activity associated with the management and delivery of assistance for Hurricane Hugo and Loma Prieta during 1991. The primary uses of Disaster Relief Funds are grants to individuals, families, and State and local governments. In 1991, FEMA anticipates that it will support recovery operations in 28 Presidentially-declared disasters.

EMERGENCY FOOD AND SHELTER

FEMA is requesting $124,991,000 to continue support to emergency food and shelter programs for the homeless through a national board of major private charities. This funding level reflects a decrease of $5,101,000 from the 1990 level in accordance with overall deficit-reduction requirements. This funding level is consistent with the Administration's policy of shifting resources into programs that assist the homeless on a more transitional or permanent basis. This request is an integral part of President Bush's pledge to combat homelessness by fully funding the McKinney Act programs. Government-wide, the Administration proposes $812 million for McKinney Act programs, a $152 million increase over the enacted 1990 level. The budget request of $981 million for all homeless assistance programs is 22 percent above the 1990 enacted level. In 1991, FEMA's funds will supplement programs for the needy and homeless at more than 10,000 organizations in 2,300 jurisdictions.

Thank you, Madam Chair. My staff and I will be pleased to answer any questions.

LOSSES IN CRIME INSURANCE PROGRAM

Senator **MIKULSKI**. Senator Garn, why don't you ask your questions.

Senator **GARN**. Thank you very much, Madam Chair.

It comes to mind there's a certain program known as crime insurance that we have terminated several times. I've heard of cats with nine lives, but may be convinced that crime insurance has an even longer life than that. We've killed it at least twice that I know of in the authorization process. In 1985, I can remember killing it off in the appropriations bill, where we offered to pay States to take over the function, and yet the program still lives. This was for a program that was started in the late 1960's to assist riot torn cities. I guess this probably sets some kind of a record for survival.

Can you tell me how much money we are currently losing in this program?

Mr. **McNeill**. Senator, I'm going to ask Mr. Hal Duryee to answer that question.

Mr. **Duryee**. Senator Garn, we are currently losing $1.3 million a month. In fiscal year 1989, we lost $15 million. We anticipate losing somewhat less than that this year because of a rate increase that went into effect at the end of fiscal year 1989.

LIMIT ON RATE INCREASES FOR CRIME INSURANCE

Senator **Garn**. On page ID–6 of your justification, you state that FEMA will raise premium rates in 1991, not to exceed the limits set by Congress, in order to make the program more efficient and less costly to the taxpayer.

What is the current limitation on insurance premium rate increases?

Mr. **Duryee**. The last authorization passed by Congress included limitations on rate increases of 15 percent in fiscal year 1990 and 15 percent in fiscal year 1991. The rate increase will be primarily on commercial structures, since they are the ones that are causing the deficit.

Senator **Garn**. What size of an increase would you have to have to fully cover the expenditures as well as debt service?

Mr. **Duryee**. We've never figured debt service into the rates that we would need. In order to recover prior borrowings, it would take a considerable rate increase. The cummulative borrowings were $129 million at the end of fiscal year 1989 and 72 percent of the program's losses last fiscal year were in interest paid on that debt. Currently, we need an approximate 30-percent rate increase, primarily on commercial structures, in order to make the program self-supporting.

Senator **Garn**. Well, again, it still amazes me that a program that is losing so much money and Congress has killed on at least two occasions still continues to live.

Mr. **Duryee**. Senator, we have appreciated your support in the past. We seem to be losing the battle in the conference committee.

DAM REPAIR NEAR ST. GEORGE, UT

Senator **Garn**. Over 1 year ago, there was a dam near St. George, UT, that failed and caused extensive flood damage. Some of the downstream flooding costs were handled but FEMA refused to authorize assistance for repair of the dike, although this represented the largest cost to State and local government. I understand this is a result of the interpretation of the Stafford Act amendment, which draws a distinction between natural and manmade disasters. In the case of manmade disasters, only fire, flood, and explosions are covered, so loss of needed water impoundment structures is ineligible, and for that matter, it's my understanding that a manmade oilspill in Alaska, such as the *Exxon Valdez* would also not be eligible under this interpretation.

Has FEMA considered any amendments to this authority to broaden the coverage of so-called manmade disasters?

Mr. McNeill. Senator, I'm going to ask Mr. Grant Peterson to answer that question.

Mr. Peterson. Senator Garn, your analysis of the situation is compatible with my understanding of the issue at Quail Creek Reservoir in St. George, UT. The Stafford Act is fairly new—it was passed in November 1988. This very issue was debated at that particular time. Because of the results of that debate and the passage of the act, we have not asked for amendments at this time.

With respect to the Alaska situation, the Alaska oilspill was covered under the National Contingency Plan for Oilspills and Hazardous Substances Pollution. The request for assistance from FEMA was only for coordination, which was already covered clearly under the National Contingency Plan by EPA and by the Coast Guard with the Coast Guard chairing that function. So it was not a limitation of the act; it was already covered under other authorities.

EXPANDING COVERAGE UNDER STAFFORD ACT

Senator Garn. What is your feeling about this? I mean, you have a manmade dam as an example, but man didn't cause it to fail. That's where I'm asking you, when you look at this, you only cover certain things, but what caused the flood was not a manmade situation. It was a manmade structure that failed, but that's really my question. Is there any thinking along the line that maybe it should be broadened somewhat? Because most people's interpretation of something that is man made is something that is caused by man.

Mr. Peterson. I don't want to repeat myself, but there was great debate on that issue during the hearing; specifically, whether it should be broadened. The answer to that was, "No," because for the majority of the cases where declarations are requested or made, the requests are not because of a failure of a manmade structure. At this point in time, we have not considered moving forward with an amendment. If the act is to be broadened through the will of Congress, we certainly would honor that.

Senator Garn. Well, I understand, and you did repeat yourself, which is fine. I guess I was asking your opinion, then, and let me state it one more time.

Mr. Peterson. Oh, I'll give you my opinion.

Senator Garn. Of whether you think it should be broadened? I realize Congress would have to change it.

Mr. Peterson. In my opinion, which will not be popular in this forum, I do not believe that it should be broadened to that extent, especially if perceived or direct negligence results in a failure of the structure. I do not believe that becomes a Federal responsibility.

DAMAGE BASES FOR DISASTER DECLARATION

Senator Garn. Well, it isn't a matter of being popular or not being popular. I certainly, from my political fiscal responsibility, certainly am not talking about a large broadening. If there's some problem that was caused by individuals, that certainly is man made. But if you do have those situations where you have, say, a very large storm, flooding that causes that manmade structure to fail—in other words, it seems to me that there ought to be some consideration of broadening in a narrow sense, if that makes any sense to make that kind of a comment. Where it was not the fault of individuals; I'm not just referring to this particular dam, I'm speaking in general. But there's no need to belabor the point any more. It seems to me that there ought to be a little broader interpretation there of what is natural and what is man made. Obviously, man made, I don't have any trouble with that being excluded.

Three weeks ago, a tornado struck portions of Nebraska and Kansas, although Nebraska requested a disaster declaration, I understand that this request was denied today. I also understand that the affected areas of Kansas were informed that they were also ineligible since they had bought sufficient insurance that uncovered losses did not meet Federal thresholds. Additionally, events which have widespread impact in rural areas with small towns are less likely to amount to the $1 million loss requirement, even though, for a small town, losses less than $1 million can certainly be catastrophic.

Have you reviewed your authorities and regulations to avoid unfair denials of requests for assistance where areas are effectively penalized for being insured or for buying insurance?

Also, I understand the need for dollar thresholds, but certainly they sometimes cause extreme hardships on these small towns, $1 million to a big city is not particularly a problem. To the rural areas of Maryland and Utah, I'll guarantee you, $1 million can be a much bigger burden than $50 million could be to a larger city. Have you looked at those problems?

Mr. McNEILL. Mr. Peterson?

Mr. PETERSON. Senator Garn, we have looked at those problems. The manner in which we evaluate a situation is severity and magnitude; it is not tied specifically to a dollar threshold. The Stafford Act specifically speaks to the issue by saying that before the Federal disaster declaration is made, that the catastrophic event must exceed the combined resources of State and local governments. So there is a responsibility for the State to be of assistance to the local government, as well, and if that cannot be met, then we have to look at severity and at magnitude.

Another key issue is that the act forbids us—I think, correctly—from reimbursing funds that are already available for payment of disaster damage, such as insurance. When we have homes that were damaged, such as we had in Nebraska, and well over 90 percent of those homes are covered by insurance, then we are forbade from paying and considering that as a portion. Additionally, if you have rural utilities that are impacted, and the vast majority of those utilities have reserve funds that exceed the amount of disaster to their rural area and repair of the infrastructure, then we would deduct those reserves from the overall figure in our calculation of magnitude and severity, and that's what happened in Nebraska, sir.

ROLE OF INSURANCE UNDER STAFFORD ACT

Senator GARN. Well, in the insurance situation, does it make sense to penalize people for buying insurance? Doesn't that encourage people to say, why buy insurance, I'm possibly better off if I don't. Then we're eligible. I mean, I'm one who would think people ought to try and exercise individual responsibility and try and take care of themselves as much as possible and buy insurance. But it seems to me that this is a disincentive for them doing that.

Mr. **Peterson**. I'm certainly for insurance acquisition. I think it's the responsibility of an individual, as well as corporations and utilities, to limit their exposure. I do not believe it's a disincentive, and I believe it would be a high-risk factor if the Nation, as a whole, began to rely totally on the Stafford Act, which can only be triggered if a State and local governments' combined resources cannot meet the need. I think that would be a very high risk.

NEED FOR DISASTER SUPPLEMENTAL

Senator **Garn**. I don't disagree with what you're saying, but I don't think that addresses my question of a disincentive to go ahead and buy insurance. We both agree people should. The Government should not be the first line of defense on these sorts of things. But, nevertheless, I certainly have the feeling that we're providing a disincentive for people to do that. I'll guarantee you that you wouldn't have people out buying health insurance if they said, well, we've got a better deal if they find out we don't have it. So we obviously disagree on that; I think it's a disincentive.

The House passed a supplemental appropriations bill this week. We'll be taking it up some time after we get back from the Easter recess. This measure contains $50 million in additional funds for disaster relief, primarily for flooding in the southeastern States of Mississippi, Tennessee, Georgia, and Alabama. I certainly don't have any objection to helping them; that is not my point. But given the $2 billion we appropriated for this account last year, are these additional funds needed at this time?

Mr. **McNeill**. Mr. Peterson?

Mr. **Peterson**. Senator Garn, in my opinion, those funds are not needed at this time.

Senator **Garn**. Well, we don't have to dispute that answer. [Laughter.]

Those are the only questions I have, Madam Chair.

Thank you.

Mr. **McNeill**. Thank you, Senator.

PERMANENT DIRECTOR FOR FEMA

Senator **Mikulski**. Thank you, Senator Garn.

We're going to pick up on some of your questions about disaster.

But my first question is, Mr. McNeill, has the White House informed the agency that they're going to get a permanent director?

Mr. **McNeill**. Madam Chair, I think this is a question that perhaps I shouldn't answer for the White House. My understanding is that there has certainly been a Deputy Director nominated, and that's in process. I think the search for the Director and the nomination of such is underway, and that's all I know.

Senator **Mikulski**. So we don't know when we're going to get a permanent Director?

Mr. **McNeill**. That's right, ma'am.

PERMANENCE OF FEMA MANAGEMENT

Senator **Mikulski**. How many of your senior management people in charge of the various aspects of the agency are permanently in place and how many are acting?

Mr. **McNeill**. Well, we have an Acting Fire Administrator, Mr. Ed Wall, and we have an acting inspector general. The rest of us are in place. The question of who is and who is not staying is a question to be addressed after the selection of the Director. There are obviously some of us who are Presidential appointees who are still in place and there are others who may be reappointed, and there is Mr. Lopez, who is a new Associate Director, and so forth.

LESSONS LEARNED FROM HUGO AND EARTHQUAKE

Senator **Mikulski**. Well, of course, it is our hope that the White House would move aggressively in the interest of the agency to appoint a permanent Director. We think it is in the interest of the country to do that. We'll so convey that. We know that that's a problem in all areas of Government right now, and whether you think the people do believe it, or not, people do believe you're the 911.

Which then takes me to lessons learned from Hugo and the San Francisco earthquake. FEMA was both cursed and praised for its handling of both Hugo and the earthquake. All of us could not serve in the Senate and not be aware of Senator Hollings' comments about Hugo and the way we then were able to respond fiscally but then wondered about the response. Some of those problems continue to exist, and at the same time, we seem to have done better with the earthquake in San Francisco.

Could you tell us what lessons you learned from that?

Mr. **McNeill**. Madam Chair, the agency has indeed been praised and cursed but we have learned some valuable lessons, and Mr. Peterson can speak on those.

Senator **Mikulski**. Well, it's not my purpose here to engage in a spring hazing, so understand that. But let me just say this. No one believes now that when the U.S. Government says that it's prepared to do something, that it is. The Census Bureau has 10 years to get ready to give the census. It is now out in the street and I can tell you, people are very unhappy, they're very confused. Local government is, and I've got a whole county in Maryland that has yet to get its census forms. If we can't get census forms together to people on a spring day, they really don't believe that they're going to get help.

Then along comes something called Hurricane Hugo on a Friday night and which all of America watched, gripped with fear, about what was going to happen to a naval base, a wonderful community, and then along came the tragedy. We had two tragedies; one, Hugo, and then the other, the response to Hugo. There are people still in shelters waiting for help.

Now, I want to know what did we learn from it.

Mr. **McNeill**. Madam Chair, I appreciate the question, and I'm going to ask Mr. Peterson to respond.

Mr. **Peterson**. We've learned a great deal and we have learned that by going after action reports, not only with State governments and affected territories, but with Federal agencies who joined us in the response, and through a severe critique of our own operational capability.

Some of the things that we learned that were good—and I'll cover some of the things we learned that were bad from our perspective—some of the things we learned that were good is that the mitigation, the planning and the exercising that have been funded out of the civil defense program and the hurricane program worked.

This was the most catastrophic four of five Presidential disasters in 4 weeks that the Nation has seen in 100 years and this agency has ever seen. In light of that, we found that our capabilities for a normal disaster were adequate. A normal disaster, Madam Chair, being defined as 24 disasters a year averaging 2,000 to 3,000 people and $10 million per disaster.

Our manpower of 233 went to 3,600 in 6 weeks. We have serviced 383,518 families who have come to us for assistance, have put out over $700 million in individual assistance checks, have over 45,000 disaster survey requests from local communities, and have found that we were not geared to deal with this level of a catastrophic event. That's the down side.

Additionally, on the good side—this was the most catastrophic event we've seen and the lowest loss of life. There's a reason for this. The surge models that we did along the coast, along with the Corps of Engineers, the plans that were written from these, the exercises that were done just prior to the hurricane, and the evacuation of nearly 500,000 people saved many lives. The Governor should have gotten some credit for that, but did not, in my mind, and it worked.

Other lessons we learned, and I say this most respectfully, Madam Chair: we are not the 911. 911 envisions an image that when the phone rings, that a button will be pushed and someone will respond immediately to help the individuals. Our legislation does not allow us to function in that modus operandi. We function only under the law, after a Governor's request, and after a Presidential signature. That is when the Stafford Act money becomes available. In this circumstance, which was totally unique, governments themselves became victims.

NEED FOR LEGISLATION

We were on the ground in St. Croix 16 hours before we received a Governor's request, and we went there under the authority of what I called an exercise. That's not the way we should be doing business in my mind. We also sent individuals into that environment, into an unknown environment, without support equipment for our own people. Many of them ended up sleeping on rocks. That is not the way we should be doing business. That will require some resources. So I would submit that there may be a need, and I'm saying the same thing to you that I was asked and prompted to answer in the appropriation hearing on the House side. There may need to be some legislation looked at here. If you want us to be the 911, with possibly some legislation, then there certainly would have to be some resources, at least to support our own people in the interim period of time when we need to respond immediately in an unknown environment.

This was the first time we've seen, Madam Chair, where we had to move into a totally unknown environment with no communications, no infrastructure, and no governmental capability. We just did not see that only in St. Croix. It was also in Puerto Rico for a time, and South Carolina.

Those are some of the lessons we learned, Madam Chair. There are many more that I can elaborate on, but I don't want to just ramble on if there are specific questions.

PREPAREDNESS CAPABILITIES

Senator **Mikulski**. Well, first let me say something about the legislation. I'm hereby making a formal request of the Federal Emergency Management Agency to submit to the Congress recommendations for consideration to alter the disaster response so that we can be viewed as the 911, to deal with the kinds of issues that will come out of this hearing. There'll be discussion. There'll be a permanent Director or we won't move to introduce legislation. That's No. 1; I'm asking for the recommendations.

No. 2, FEMA has been primarily constituted to respond to acts of hostility against the United States of America. That's where the bulk of your money really comes from, other than what we're able to provide and so on.

Now, in the event that we had been under a military attack, hostile forces would not bomb one city at a time; they would not say, we're only going to bomb 24 cities a year. They would say, if we're going to come at the United States, we're going to come at it, hard. Now, even if the mission for FEMA stays the same and we will assume that we could be subject to a military nuclear hostile attack, under this approach, we wouldn't be ready. What we're talking about is equipment, personnel, prepositioning, computers—whatever. Even if we would talk about a civilian disaster, I've got two nuclear powerplants at one end of Maryland and another at the other. We're a wink away from Three Mile Island. But, apart from that, the question becomes then, disaster mobilization, even though you have to wait until State and local governments reach their saturation point, what happens if there is no State and local government? What is our mobilization strategy? What triggers it? In the event of an emergency, it's not the time to be writing memos.

Again, I am looking for preparedness.

Mr. **Peterson**. I think there's two issues here, Madam Chair. If I may try to address them.

One is the Stafford Act, and what we're authorized to do under that. The other is the Civil Defense Act, 1950, amended in 1964, 1975, and again in 1981. If Hurricane Hugo taught us anything, it told us that we were on the right track with the civil defense expenditures for survivable crisis management, which would guarantee the survivability and capability of State and local governments to survive in all hazards—all hazards—including nuclear attack.

Currently, there are 10 States involved in the survival crisis management concept that was developed 3 years ago. There are 10 more looking at the program for 1991. We have had the Government of the Virgin Islands, the Government of Puerto Rico, the Government of South Carolina, after the fact, request that we come in, and we have done so, and aid them in establishing a survival crisis management capability under the Civil Defense Act so that they have an opportunity to survive and function and provide for command and control and have reliable communications in the event of the next natural disaster.

So those funds, I believe, are being spent very appropriately and are exonerated because of this catastrophic event.

Senator **Mikulski**. Mr. Peterson, I'm going to ask you to withhold, only because Senator Kerrey advises me he has to preside at 3 o'clock. We'll come back to the mobilization; but Senator Kerrey, I know you wanted to ask a question before that.

Go ahead.

Senator **Kerrey**. Thank you very much, Madam Chair.

I am also interested in the March 13 tornado that went through actually Kansas, Nebraska, and Iowa. I assume if I just direct my question to Mr. Peterson, it will be appropriate.

There are two general areas of concern, Mr. Peterson. One is the policy and the other's the procedure. I would like to pursue a bit more on the policy and give you some questions to answer on the procedure at a later date.

Mr. **Peterson**. Yes, sir.

EXCEPTIONS TO DISASTER DECLARATION CRITERIA

Senator **Kerrey**. It seems to me, I guess the argument that I make and this is not the first time that I've visited the constraints that are often there as a consequence of funding through the local subdivision of Government where the damage either is not sufficient to justify on a percentage basis, or where the damage tends to stretch across county lines. In this case, it was a very unusual storm, in that it did not touch very many political subdivisions and it did most of its destruction in Nebraska, at least, in the farm area. So we've estimated 39 million dollars' worth of damage. I have a difficult time with a response that says that this was not beyond the capability of State and local government. That's part of the problem that I've got with this.

I'm also looking at the possibility that perhaps we should provide you with some flexibility to make an exception, without opening the whole thing up so that everybody becomes an exception. I understand that's always a dilemma. But it seems to me we've got an exceptional situation here, with damage very widespread; it's not easy to go in and photograph it for the 6 o'clock news. It's over a very wide area, but a very unusual storm. I mean, I've searched with old timers to discover whether or not there's been a comparable storm and still have not found one that did this kind of damage.

I'm also very much aware that the damage is done to uninsured property, to out buildings and equipment. I'm also aware that there's a gap between insured and uninsured and that the Stafford Act, itself, was intended to stop the grant so as to provide an incentive to purchase insurance. I believe that Senator Garn is correct, that if we follow this procedure repetitively, we may, in fact, have one of those unintended consequences of doing the opposite of what we are attempting to do.

So with that sort of opening out of the way, let me just ask you if you think it's possible and/or desirable, I guess, desirable, first, to look for some way by which FEMA could make an exception when they're requesting a Presidential declaration of this kind?

Mr. PETERSON. Well, I think we always have to look at whether we are really being responsive to the intent of what Congress has asked us to do. We wrestle with that all the time. We do not have any specific formulas. There are no formulas of per capita. That was debated earlier in the existence of FEMA and I think justifiably rejected by Congress, because then you get very rigid. We try to be flexible on the magnitude and severity of the circumstances. In Nebraska, it was over a very wide area; we did find major insurance, over 90 percent, on the homes impacted. Of course, we are prohibited from reimbursing for the same damage that is covered by insurance. In the utilities which are public-owned, and certainly fall under the authority of the Stafford Act, we found that the preponderance of those utilities, about nine of them, had such substantial reserves that they exceeded the cost of maintenance and repair. In that light we are, by the intent of the law, prohibited from reimbursement.

I say most respectfully that the $39 million figure is very far away from where we are in the joint evaluation of the State and the Federal Government's on-site inspections. We're looking at a potential eligible cost of around $2 million for the public assistance side, and well over the majority of that covered by reserves that are available for such things in the power companies.

If there is additional information that we have missed—and we really pushed this one—there's an appeal process that we would encourage be pursued. We did not find major outbuildings and equipment destroyed in our evaluation. So when we looked at all the insurance that covered the homes, and we looked at all the reserve amounts that were there for the public utilities, it did not appear that we could justify that this exceeded the combined capability of local and State government.

Now, Senator——

EXCEPTION WHEN DAMAGE IS ACROSS POLITICAL SUBDIVISION

Senator KERREY. Now, let me be clear a minute. I'm not pretending that I have the capacity to do damage assessment, or that I've got——

Mr. PETERSON. I understand that.

Senator KERREY [continuing]. You know, the ability to do an appraisal, even if I was on the site. I mean, I don't dispute your appraisal. What I'm looking at is a very specific exception for a situation where the damage doesn't conform to the political subdivision rule, whether or not it's possible, and/or desirable. I mean, I assume you made the decision as to what the recommendation was going to be?

Mr. PETERSON. We make recommendations and, of course, the final decision is always in the hands of the Administration, sir.

Senator **Kerrey**. But you made the recommendation?

Mr. **Peterson**. Yes, sir; one of my staff's responsibilities—ultimately, my responsibility—is to collect damage information in the field, through the regions, review it at headquarters for policy, and make the recommendations.

Senator **Kerrey**. What I'd like to have you answer, and you needn't answer it here, now, but I would like the answer as soon as possible. It's whether or not you think you would have the authority, now, under current law, to make an exception where the damage did, in fact, stretch out over a large geographical area that may not have conformed to specific political subdivisions. Second, if you don't have that authority, do you think it would be useful to do that. I'm not asking that it necessarily be done just for this disaster. I know that this sort of thing comes up from time to time, I know that there needs to be proper review, and accountability for money.

By the way, I visited the site 2 days after the damage and these people aren't clamoring for a handout. They were on the site immediately cleaning it up and which, by the way, you know, to me is a fairly remarkable situation that we sometimes provide, based upon who is doing the clamoring, not just who needs the resources.

So if you could provide me with that answer as, one, whether you think the statute provides you with that authority, I would appreciate it. And, second, if it does not provide you with that authority, do you think some statutory change would be in order to give it to you in the event of this kind of disaster in the future.

I have a series of procedural questions and, Madam Chair, I'll just submit them. They relate to when FEMA received the information from Kansas City. There were, by the way, FEMA employees on site. I think they did an exceptional job of working in the community. I've got no problem with that, at all. I don't want to prejudice your answer by making you think that I'm critical of how they perform. I would like to know when the recommendation was sent to the White House, and all that sort of thing.

Again, I'm also not trying to engage in hazing as the Chair, I think, said she was not, either. I've been in these kinds of disasters, personally, before, and I know how important it is from the standpoint of the person who's been damaged to get a very quick answer. I know that you struggled with this one and perhaps that's the reason you took so long. But I want to assure myself, if there are procedural roadblocks as a consequence of the Stafford Act, that we look, we in Congress look and perhaps provide you with some sort of release so that you can make a decision quicker.

Again, I'm not suggesting that you didn't make the decision fast enough; I just want to make sure that there isn't anything there that I have done. Although I didn't participate in the Stafford Act, I certainly participate in evaluating it. I want to make sure that I do evaluate it, fairly.

Mr. **Peterson**. If I may, personal privilege. I would like to answer that, if I may, for the record, and I'll do a definitive work on that so it can be thought through well, and examples can be given to you. Additionally, I want to thank you for your letters that you sent. I did receive those letters, and as soon as I found out what the answer was, I immediately put pen to paper and have gotten that over to you as soon as I could today, sir.

Senator **Kerrey**. Thank you.

Thank you, Madam Chair.

[The information follows:]

Stafford Act Criteria for Disaster Declaration

The Stafford Act criterion for a major disaster is that the incident be "* * * of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that federal assistance money is necessary." "Severity and magnitude," "effective response," and "capabilities" are, by design, undefined. The Act's authority for defining what constitutes a disaster in any given situation is, therefore, broad and flexible.

For example, this language has accommodated the declaration of a major disaster for what was, in essence, the destruction of a single rural town. I refer to the tornado which struck Allendale, Illinois, on January 7, 1989. Damage in the surrounding counties was minimal. And while Allendale is only a community of 600 citizens, the near total devastation presented special problems for the county, the State, and other sources of assistance. Federal assistance was deemed necessary, and a major disaster was declared on January 13, 1989. At the opposite extreme, flooding in June of 1989 along Alaska's Kuskokwim and Yukon Rivers resulted in generally moderate damage across a very extensive area. Great distances frequently separated one damaged house from another. Due to the disproportionate hardships that even moderate flooding damage can inflict in Alaska's interior, coupled with the modest circumstances and subsistence lifestyle of many of the victims, the "severity and magnitude" and the difficulties imposed on the response capabilities of the State and local governments were interpreted to warrant Federal assistance. A major disaster for Alaska was declared on June 10, 1989.

We suggest, then, that the Stafford Act does adequately provide for the declaration of disasters for damages over large geographical areas, along with any number of other atypical situations. We would not propose changes to the Act in this regard.

DISASTER MOBILIZATION

Senator **Mikulski**. Mr. McNeill, I want to go back to the issue of disaster mobilization, which is a theme, of course, that's running through here. Is there a disaster mobilization strategy in place from all regions and States in the country which would have an inventory of prepositioned equipment and people who can respond if a disaster hits?

Mr. **Peterson**. Let me take that, if I may, Madam Chair. It's specifically related to the requirements of the comprehensive cooperative agreements that we have with State governments, which is the funnel and the contract between the Federal Government and the State government for specific tasks to be performed.

One of the primary elements, of course, is the funding provided to over 2,600 jurisdictions and up to 50 percent—we're doing about 35 to 40 percent—of the salaries of over 6,000 individuals in the field. We support them with 100 percent funding for population protection planners and other specialists whose goal is to develop plans for all hazards, including nuclear attack. So that the plans will be in place and periodically exercised for the purpose of providing a readiness capability to provide information, direction, and control for the citizenry and a continuity of government process for the government, so that it may survive and be supportive to the needs of the community.

As to the second part of your question, are there stockpiles of materiel and food and all of that under the Civil Defense Act? There are not. There have not been since the Kennedy years where we were dealing with a $1 billion budget. Those stockpiles have diminished and are virtually nonexistent under the civil defense program. So, no, we do not have those kinds of stockpiles.

I need to go one step further, if I may, though.

Under the catastrophic disaster response plan, which was put together about 3 years ago and finalized about 2 years ago, FEMA chairs a group of 24 Federal agencies who have signed on to respond to a catastrophic event. Of course, Agriculture, Transportation, Department of Defense and many others are in this group. Through those resources, we can acquire substantial stockpiles of food and equipment to deal with natural, technological, and strategic disasters.

So there is a mechanism in place to enhance acquisition, and we utilized portions of that in the hundreds of missions that we tasked to St. Croix, airlifting over 4.5 million pounds of food into St. Croix, alone. Also, we airlifted 200,000 ready-to-eat meals and hundreds of generators. So the process was there. It was exercised in August 1989 in California where over 500 Federal employees joined the State of California in testing that capability. Remarkably, it was only 2 months later that we had the real earthquake.

So there is an integrated process of civil defense working with natural, technological disasters, as well as strategic nuclear threats.

INVENTORIES OF CRITICAL MATERIALS

Senator MIKULSKI. Of course, I'm not advocating stockpiles. I am concerned about inventories and also access to information.

If I could, just for the sake of conversation, take a look at oilspills, and I'm not going to go to the Valdez situation. But, for example, a computer having an inventory of some material prepositioned in different parts of the country, also an inventory of backup material that could be obtained by other resources from either the governmental or private sector. An example that I'm talking about, if there was an oilspill in the Chesapeake Bay, you can't have boomers up and down a 2,000 mile coast line. However, the Coast Guard, Department of Environment, again, Federal, State, and local plans, are such that there are some boomers prepositioned. The Coast Guard has on its computer where the private sector contractors are and around the State, and we could move it pretty quickly to contain a spill. I hope it never happens, and so on.

But you see what I'm talking about and not only in terms of food or whatever, but things like generators. I think generators were one of the really tremendous concerns of getting your hands on them. You can't have enough. You couldn't buy enough and we can't fund you enough. But you understand the point that I'm making, and I wonder, therefore, where we would be in that kind of a situation. If this would require legal changes, the Coast Guard could step in and essentially take over. Right now the management of a bay problem would mean the State of Maryland calling in the Coast Guard and a variety of other agencies.

Mr. PETERSON. I would respond by saying, especially to the last portion of your comments, that the most appropriate response organization is the Coast Guard. They have the expertise, knowledge, training, and information available for oilspills on water, and of course, the EPA does the same thing for those type of disasters on land.

We certainly found a substantial need for readily available critical resources, such as generators. We transported into St. Croix, as an example, four 750-kilowatt generators that required a staff of 23 people just to run them. We could only identify nine of those units around the United States. We used one in South Carolina, in Sumpter, to get the sewage plant up and running, and so there is a need to inventory and identify. Now, local governments are doing some of that under our——

EXTENT OF INVENTORY

Senator MIKULSKI. You don't have an inventory of things like that that would be your most probable needs——

Mr. PETERSON. Not to the extent——

Senator MIKULSKI [continuing]. To ensure the functioning of a community?

Mr. PETERSON [continuing]. Not to the extent that you, I believe, are identifying the issue. Now, when we sit down at that table with 24 Federal agencies under the Catastrophic Disaster Response Group [CDRG], as we did 2 hours after Loma Prieta, we have GSA sitting there, and they have tremendous resources in acquiring equipment, as we found out. So does the Department of Defense, who came on line very quick through the Department of Military Support. We found those items very rapidly and were able, for the most part, to provide what was requested of us by the Governor.

If I could take just a moment, Madam Chair. Our process in this kind of an emergency requires that we take our direction, and I think appropriately so, from the Governor or his representative. After all, he pays 25 percent of whatever he asks for. There was some concern and frustration, I believe, in that the prioritizations were set by the Governor and the request for assistance was set by the Governor. I think there were some perceptions that there should have been a broader base of requests honored and that more equipment should have been thrust in without the kind of justification or processing through the State.

So I think that's something that needs to be looked at; I think it was a reality and a frustration.

Senator MIKULSKI. But you know what you need?

Mr. PETERSON. Yes.

Senator MIKULSKI. I mean, regardless of whether a Governor calls you up or whether a State has not been so devastated it might be hard for a Governor to be calling; any number of things. You know the contingencies.

Mr. PETERSON. Now, better than ever.

RESPONSIBILITY FOR INVENTORY

Senator MIKULSKI. You also know pretty much what you will need, like generators, certain other kinds of equipment, depending on the type of disaster, either to restore functions or to even aid in facilitating a more extensive evacuation where there could be medical casualties and some pretty horrendous situations.

For example, if there were a nuclear accident in Maryland, we then could not use our facilities at the University of Maryland; the sick would have to go someplace else. I would hope we would never face that.

My question to you is, Are you in the process of developing such inventories within a coastal or multistate region? One State would be hurt but the surrounding States, not. Some States have extensive military resources; other States don't.

In Maryland, for example, we would have extensive military capability to respond, including, you know, the guys at the Naval Academy all the way up to people on military bases.

Mr. PETERSON. Speaking specifically to your example, FEMA is a member of the Federal Radiological Emergency Response Program and plan which is comprised of a dozen agencies and members was designed and put in place for responding to radiological emergency preparedness issues. The catastrophic planning process, overall, that I talked about before charges all these other agencies with these support functions to inventory and identify resources that are available, so that they can be readily and immediately injected into it.

Finally, to speak specifically to your question to me, Madam Chair, do we have inventories or the resources for the inventories, or a mandate to develop inventories, specifically as FEMA, the answer is no, we do not.

Senator MIKULSKI. Should you?

Mr. PETERSON. I believe in certain critical resources that we could identify through experience, that we should have an inventory available, such as has been mandated for urban search and rescue, where we have just begun to put the contract together to find out what is out there in this Nation that can be called upon for urban search and rescue in a catastrophic event with the possibility of hundreds of buildings down.

We moved forward on that. We had a meeting in January in Seattle with 80 of the best minds, and began to put together that structure. I would tell you, today, I'm very encouraged by it, but was also very concerned by the lack of that capability. So it was something that needed to be done.

But that's only one issue of potentially many. We should have some broader base of inventories in key issues that would be needed immediately. Because this Nation has great capability, we'll find almost everything we need for an isolated situation with the proper time. But in an emergency, during the first 5, 7, 14 days, when we need to be there and support our people in the field, so that they can be free to identify State, local, and community needs and task DOD to find this and GSA that, well, we're in dire straits, there, Madam Chair; we're in dire straits.

USE OF GENERATORS

Senator MIKULSKI. Well, we would like to flesh this out as we move through appropriations.

We could follow up with many questions on that, but I'd like to ask just one last question on the generators, and then move on.

As I understand it, FEMA's legislative authority allows you to provide generators only to Government and in some instances, there were things that restored the functioning of Government—you can give aid to individual families or public and Government institutions, but you can't give it to private business, and we can understand why. But then there are certain private businesses, for example, like grocery stores that need their refrigeration to maintain the supply of food so that people could come in. Again, in a Hurricane Hugo, are you in a position that if you gave generators to the South Carolina government or the city of Charleston, under the way our legislation works, could they then give our Federal generator to, say, the largest supermarket in one of the most hardest hit areas?

Mr. **Peterson**. I'm going to answer that, and then I'm going to look over my shoulder to my key staff person because I believe that this is the way the scenario would work.

Senator **Mikulski**. Is that the way we work because we're not into restoring profitmaking ability, we're into restoring function of available water, food supply, those kinds of things.

Mr. **Peterson**. In emergency and lifesaving necessities, a city could identify a need to the State, through the State Federal coordinating officer, and say, we need 150 generators of 50 kilowatts. We would provide those generators to the State, the State would give them to the city, the city would use them in the manner that they felt was the highest need. So, from that standpoint—health and safety of the citizenry—I believe it can be addressed through that process.

May I just take a second and make sure I didn't misstate anything.

[Pause.]

Mr. **Peterson**. My Assistant Associate Director, Mr. Chappell, tells me that's right on, but we should emphasize it has to be for health and safety and for public need.

Senator **Mikulski**. The reason I mentioned a large supermarket, we think of a large area that could serve a population for refrigeration. Many large supermarkets also have a prescription drug counter, they've got the insulin, what we would call lifeline medications, and so on.

Mr. **Peterson**. We would not like to be perceived as an inhibition to that capability, and I don't think we are.

CIVIL DEFENSE PROGRAM IN CHANGING WORLD SITUATION

Senator **Mikulski**. Let me then move on to some other parts of the testimony.

Mr. McNeill, Mr. Morris' prepared testimony implies that FEMA is considering shifts from civil defense into other programs in light of the changing world conditions.

Could you tell us what kinds of shifts are anticipated, and any timetables on that?

Mr. **McNeill**. Madam Chair, Mr. Peterson, again, can help answer that question.

Mr. **Peterson**. Madam Chair, the administration has requested that a review of the civil defense program, in light of current affairs, be initiated, and that is going to be ongoing. We're moving forward on that very rapidly.

We applaud and are encouraged by what we see in the international arena. I have just given testimony before the Armed Services Committee on Civil Defense in the House, and a lot of this was discussed. I had along with me, Craig Alderman, who is one of the senior policy people for DOD. I'm very encouraged and very hopeful.

On the other side—and I'd like to cover it in three parts—on the other side of the coin, it is a very serious time of stabilization. We don't have status quo circumstances that we've dealt with over many years that have served us so well. Additionally, the briefings that I have had indicate to me that the capability for continental delivery of strategic weapons is not diminished at all; in fact, it is technically at a higher capability than we've ever seen before.

Beyond that—and we all read the newspapers—this weekend was a classic example, as was the previous weekend—that there are many other nations who are now working diligently toward the acquisition of long-range missiles, triggering mechanisms for nuclear devices, and chemical manufacturing. I guess what I would say at this time, is that I do not believe that it would be a proper time to back off in the direction that we have, especially concerning the dual use aspect of this civil defense program. For the last 3 years, we have been working very hard to honor that dual use—all hazards including nuclear attack. Seventy-five percent of all the dollars in the civil defense budget go directly to State and local governments to support personnel, planning, and to build a survival crisis management capability that can and will be used every day for all hazards across this Nation.

I do think it's appropriate that there be an analysis done on the civil defense program in light of current affairs. I applaud the administration for requesting it and moving forward.

REQUEST FOR CIVIL DEFENSE REVIEW

Senator **Mikulski**. Mr. Peterson, I would share caution the same way, we're all heartened by the changes and yet we still face people who are quite hostile to the United States, and we also face acts of terrorism and sabotage which could cause civil defense havoc in any one of our communities. I don't believe it's even worthy of going into detail on that.

What I am interested in, though, because I do know the administration is looking at how to use resources wisely, and in a dual-use capability. Chemical weapons would be the same preparedness issue as a chemical spill or an accident in a factory or, so on.

So my question is, the administration has asked for a review—when have they given you a date for final submission of that review, and what is the progress that is being made in complying with the administration request?

Mr. **Peterson**. It is a current request. It's one that we're moving with as expeditiously as we can. I do not have control over the review side of that policy, but we will be as responsive and as timely as we possibly can. I would hope that we can have this done within a year's cycle, but that's Grant Peterson speaking.

Senator MIKULSKI. When did the administration make the request?

Mr. PETERSON. We actually have forwarded the request, formally, ourselves, at the request of the administration, so it is just happening within this month's timeframe.

ANNUAL RISK ASSESSMENT OF PRINCIPAL THREATS

Senator MIKULSKI. Do you think, in light of this, particularly given the kinds of threats that are most likely to occur in the United States by acts of God and so on, that we should have an annual risk assessment as a basis for your budget, Mr. McNeill, Mr. Peterson, others?

In other words, one would guess now that we're more likely to be hit by a hurricane than by a nuclear hit. We're more likely in communities to suffer problems with fire. By the way, you know, we've been around the track about the Fire Academy but the training of volunteer firefighters is probably one of the most important functions that FEMA does because you prepare them for all new hazards and you get real kudos for the training that they get.

Mr. PETERSON. I would just say that we have provided, today, the final document on the principal threats facing communities and local emergency management coordinators. We apologize for being 4 days late on that. I think it's a good first start. We compliment you, Madam Chair, and this committee for asking for that because it was a challenge to us. But I think we've learned a lot in putting that together, and we've also learned a lot about how to find out certain information. We would be very supportive of an annual update of this document. I think it provides a good base of information.

We found it extremely complex in trying to prioritize some of these issues because what is a priority in one region certainly is not in another. What is consistently a principal threat in another region, such as floods, may not be an issue at all for another area.

Finally, I would say, most respectfully, if there's anything I have learned, it is that we're in a very changing environment, and what is status quo one day, such as the average disaster, may certainly not be status quo 24 hours later. So I think we have to look at this in a broad context and try to use our resources for all hazards, including national security. I believe the thrust we're on right now is not faulted.

RANKING PRINCIPAL THREATS

Senator MIKULSKI. So your report ranks floods, power failures, hazardous materials, transportation accidents, as the State and local emergency coordinators ranked them. In communities, it would be fires, and of course, as you indicated, other contingencies in different parts of the country. My very good friends from Wyoming would be concerned about problems with Yellowstone, and I have other sets of problems in Maryland which could be everything from things at Ocean City and beaches and evacuation plans.

So that then would be the basis for the allocation of resources. Do you think we should then organize ourselves along that basis, recognizing of course our overall concern in case of a hostile act?

Mr. **Peterson**. I am very respectful of your question and I'm going to try to answer it as honestly and as cleanly as I can. The issue is very complex. On page 75 of our newest draft—and I hope that that has had time to get to you—we have a ranking here on page 75. If you don't have the newest draft, I'll have it brought to you immediately. To show you the complexity of it, the State would rank in frequency, a flood as a first priority in frequency, but if they were to look over in the final column at their first ranking on estimated maximum catastrophic loss, it certainly is nuclear war followed by conventional war, followed by chemical and biological warfare.

So, in doing an analysis, in dealing with our States, they can prioritize their peak threat for their specific geographic area, but it is much broader and more encompassing than just that one geographic issue.

Senator **Mikulski**. I know that.

Mr. **Peterson**. Yes; and so——

Senator **Mikulski**. There are certain things that are national. Not to keep dwelling on it, but a hurricane coming up the coast will have multistate impact depending on the size of the storm, will have a different impact depending on where it hits, et cetera, et cetera.

Well, the reason, and know that I've asked Bill Reilly this same thing, which is, does your budget match the environmental risk? What I'm trying to do is to make sure that we use our money smartly and our resources smartly; and that we protect our people from the greatest risks and that we maximize our resources in some instances that are quite skimpy for accomplishing that purpose.

So that's why we went through this exercise, and that is in no way to diminish the hostile force, the terrorism, and so on. So you think we ought to update every year? You like it?

Mr. **Peterson**. I'm sorry, Madam Chair?

Senator **Mikulski**. You think we ought to update this every year?

Mr. **Peterson**. I think it's become a valuable exercise for us, as well. I would feel that now that the base document is done, we have the ability to update that. Yes; I would concur.

Senator **Mikulski**. Do you intend to use this as part of your response to the administration?

Mr. **Peterson**. We'll certainly include it as our response to the administration, yes.

REDUCTION TO FOOD AND SHELTER

Senator **Mikulski**. We know that the administration and the Chief of Staff for President Bush, Governor Sununu, a former Governor, has the eye of a Governor, and this of course is key to what we're talking about. Well, we'd like to talk with you more about that as we move through the budget to make sure that we've allocated some resources, whether it's training or whatever, for the largest one. For some of those that are most likely to happen.

I want to go on to the Emergency Food and Shelter Program. In the FEMA appropriation request, we're talking about a cut of 10 percent below full funding. Your program is unique. You put money out to help in the soup kitchens, small shelters, those fabulous food banks that get resources out in a way to the people most in need, and also people who are authentic servers of the poor, not into a lot of administrative costs, or sham and scam that goes on. It's really one of the few McKinney Act programs that are working in a timely and fiscally prudent way. I mean, first of all, I'd like to compliment the administration of that program because it is doing what we had hoped. Why, then, cut it?

Mr. **McNeill**. Madam Chair, in our detailed statement from Mr. Morris, we do refer on page 14 to the funding level being consistent with the administration's policy of shifting resources into programs that assist the homeless on a more transitional or permanent basis.

I'm going to ask Mr. Chappell, who is the Chairman of the National Board of Emergency Food and Shelter to help us with an answer to that.

Senator **Mikulski**. Surely.

Mr. **Chappell**. Madam Chair, thank you very much for your kind comments regarding the National Food and Shelter Board. I would like to take your comments to our National Board meeting tomorrow. We meet on a monthly basis. They take great pride in this activity.

Senator **Mikulski**. Sir, and not only my comments but I understand the GAO found, in fact, that there are many small operations throughout this country for which the assistance that you give makes the difference between them being open and them being closed.

Mr. **Chappell**. Thank you very much.

In answer to your specific question concerning our budget, at the time that we submitted our request, while we were authorized $134 million, we were actually funded for fiscal year 1990 at the $124.9 million as a result of the deficit reduction sequestration. That's what's represented in the budget request, currently, that level.

Senator **Mikulski**. So this was hit by sequestration.

Well, the President wants the McKinney Act fully funded. A good part of it is in this subcommittee's 302(b) allocation. The full funding of the McKinney Act for your program would be what, $5 million more?

Mr. **Chappell**. Yes; that's correct.

Senator **Mikulski**. If this committee provided that $5 million, you could more than make use of it?

Mr. **Chappell**. We have in the past, Ma'am.

Senator **Mikulski**. Thank you. I think you've answered my questions.

Would you also convey to the Board, again, our sincere appreciation for their effectiveness and their efficiency?

Mr. **Chappell**. Certainly.

REDUCTION IN SARA TITLE III PROGRAM

Senator **Mikulski**. I want to go on to another cut, Superfund community right to know training. We understand that FEMA proposes dropping all Superfund title III training grants? Why would we be doing that?

Mr. **McNeill**. Madam Chair, I'm going to ask Mr. Dave McLoughlin to answer that question.

NEED FOR HAZARDOUS MATERIALS TRAINING

Senator **Mikulski**. Superfund problems are another one of those risk situations in the community, and as I understand it, one of the things the right to know does is help manage the fear, as well as manage the Superfund site and help really contain both. It's a very important tool.

Mr. **McLoughlin**. Madam Chair, when the Superfund Amendments and Reauthorization Act was authorized, it was authorized for a 5-year period. The training portion of that under title III was authorized only for a 4-year period which runs out this year, in 1990. It was not authorized for 1991 so we did not submit a funding request for that.

Senator **Mikulski**. I think that's an excellent point, but the question then, also, that I would have regard need? Is it your experience as a professional administering the program, that there continues to be a local need for the program?

Mr. **McLoughlin**. Madam Chair, there is no doubt in our mind that hazardous material training is probably the single highest priority concern on the part of both State and local governments. The issue is what the proper Federal role is in terms of supporting that. Our general position has been, as the Congress has provided this money, we have been essentially a passthrough agency for that money to go to State and local governments.

The thing we think we can do most appropriately for State and local government is do course development work, that kind of effort that is probably best done at a single location. State and local governments need help, certainly, in hazardous materials training. We are also providing that help in the regular programs that we have at the Emergency Management Institute and the National Fire Academy at our Emmitsburg facility, and in the money that we provide for in our field training efforts there.

Whether or not there's a continuing need specifically for the hazardous material training funding, is an issue for the moment that I'm not sure is a Federal responsibility. Clearly, I know there are markedly different views on that in the State and local governments.

Senator **Mikulski**. Have State and local governments indicated a desire for the funds to continue?

Mr. **McLoughlin**. Yes.

Senator **Mikulski**. For their training?

Mr. **McLoughlin**. Yes; they have.

Senator **Mikulski**. And if you don't have the grant funds but you develop the course material or the course training material, who then would be doing the teaching and the training?

Mr. McLoughlin. Essentially the same people that we are helping support out in the fire community and the emergency management community today. There are essentially 50—give or take a few—essentially 50 State fire training organizations plus another 127 major metropolitan fire training organizations. It's those organizations that would be doing it and continue to do it for the Fire Service.

In the case of an emergency management community on a larger basis, the State emergency service people have a training capability. We help support that, for example, with a full-time training officer in each one of the States. It is this same training system, essentially, that would be using the course materials that we would develop to do the hazardous materials training.

Senator Mikulski. I see. Well, we're going to have to talk with our authorizers to see what they want to do about this. I think that clarifies the questions that I had. It gets to how can we do it the best. Of course, now, this takes me to Emmitsburg. [Laughter.]

STIPENDS AND FEES FOR TRAINING

I hear compliments throughout the firefighting community about the training that's going on at Emmitsburg. Again, I'd like to compliment the people at the academy who are doing this.

All of you know that my own background is in local government, a city council person, now Senator. My mayor was William Donald Schaefer, now Governor, now Senator. But what we really bring to our respective tables, is our experience with local government. The fire departments, of course, are key to public safety, as are all volunteer fire departments.

Now, in terms of the actual training, I think that we're doing an excellent job. Could you tell us the status of stipends and charging of user fees and so on? Where are we with that?

Mr. McNeill. Mr. McLoughlin?

Mr. McLoughlin. The stipends are in the budget this year, Madam Chair, at the same rate as they were last year, after they were restored by the Congress.

With respect to the fee, it is being proposed in order to share the support for the training effort with State and local governments. We are proposing to charge a $25 registration fee for 1 week or each portion of the week that the students are there, with two exceptions. We would not charge the volunteers, particularly during the weekend training sessions when there is a large training effort for the volunteers, as you probably know, in our State weekend programs. We would not propose to charge the volunteers for that.

Second, we would not propose to charge to train the trainers because it is our requirement for people to be trained, then to go back to their home State to train others. With the exception of those two, it's proposed to charge them $25 and that would go to the Treasury; it would not come to FEMA.

EFFECT OF STUDENT REGISTRATION FEE

Senator Mikulski. Will this user fee mean less people would go to Emmitsburg?

Mr. McLoughlin. It's hard for us to make an estimate. We certainly expected that when there were proposed cuts in the stipend, that it would impact us significantly. With a $25 fee, it's more difficult for us to make an estimate on what the impact will be. I've acknowledged the uncertainty.

With that, our best guess is that it probably will affect the Emergency Management Institute a little more than it will the National Fire Academy. The reason for that is that right now, depending on the course, we have about three to four applicants for every course slot that we have available. So there are an awful lot of people in the fire community that want to come to the training that are not able to get in there. So the $25 fee may not be as much of a detriment for the paid people.

Senator Mikulski. When a firefighter comes, they pay their own transportation to Emmitsburg, is that correct?

Mr. McLoughlin. No; we pay under the stipend program. We pay for their transportation from their local transportation center, the airport, to Emmitsburg. We provide free quarters. They pay for transportation to the airport, for their meals, and for whatever replacement person cost there might be when they come to the facility.

Senator Mikulski. You provide free living space, but for meals at Emmitsburg, they pay?

Mr. McLoughlin. That's correct.

FIRE ADMINISTRATION CONTROL OVER FIRE ACADEMY

Senator Mikulski. Now, let me go into the Fire Administration for a second.

There's been some suggestions and legislation introduced, to give the Fire Administration greater independence and take over the Fire Academy at Emmitsburg. What is your position on that?

Mr. McNeill. Madam Chair, I think I'd like to ask Mr. Ed Wall, who is the Deputy Administrator of the U.S. Fire Administration, to answer that question.

Mr. Wall. Madam Chair, when I delivered FEMA's testimony before the Oversight Committee on the Firefighters' Bill of Rights, which I believe you're referring to, it was FEMA's position that FEMA did not favor reuniting the Fire Academy with the Fire Administration.

Senator Mikulski. Well, the firefighting community at times feels that with all FEMA has to do, that they get short changed, whether that perception is accurate or not. So then they're talking about an independent agency for the Fire Administration and then a Fire Academy under that.

Why would you object to that?

Mr. Wall. Well, if you're referring to the Fire Administration as a truly independent agency outside of FEMA, I believe that even with combining us with the Fire Academy, we'd be so small that we would not survive.

Senator Mikulski. Of course, this is the subcommittee on independent agencies.

Mr. Wall. Yes, ma'am.

Senator MIKULSKI. How would you feel, then, if we put the Fire Academy under the control of the Fire Administration, but still, of course, keep the USFA within FEMA.

Mr. WALL. Well, if I could refer back to the initial legislation, Public Law 93-498, the Fire Prevention and Control Act of 1974, the original intent of the framers of that act was that the fire administrator would be in charge of the Fire Administration program, and that the superintendent of the Fire Academy would be subordinate to the administrator.

Senator MIKULSKI. Well, what role does the Office of Training have with respect to the Fire Academy?

Mr. MCNEILL. Mr. McLoughlin?

Mr. MCLOUGHLIN. Madam Chair, placing the National Fire Academy under the U.S. Fire Administration is permitted today; there's no reason that the agency couldn't do it. One of the reasons for opposing this is simply the fact that we believe that the Director of the agency really ought to retain the responsibility and have the authority to organize the agency in the way in which we think it is most efficient in dealing with its full range of missions.

While there is an argument to be made, certainly, for the recombination of the two, there's also an argument to be made that there is more similarity in the training functions of the academy and the Emergency Management Institute than there is in the direct relationship between the Fire Administration and the Fire Academy. You can make an argument on both sides. Our position was simply one to retain that opportunity for the Director to do that.

Senator MIKULSKI. But isn't the Fire Academy a tenant at Emmitsburg rather than like an owner?

Mr. MCLOUGHLIN. No, ma'am; it is not. The facility was purchased under the authority of the Fire Prevention and Control Act, and it was purchased by the original authorization to the U.S. Fire Administration at that time to purchase the facility. There was a $9 million authorization and we purchased it for about $3.5 million.

Senator MIKULSKI. Well, if the head of the Fire Administration works for the Director of FEMA, how could the Director still not maintain control of the Academy?

Mr. MCLOUGHLIN. Oh, I'm sorry if I gave the impression that the Director wouldn't maintain control over it in either case. Certainly he would because the U.S. Fire Administrator does indeed report to him. In any way the organization is developed in the agency, the Director would have control. It is really a question of permitting the Director to organize to meet the full range of functions in the way he or she best determines is appropriate for the agency.

REPORTING CHAIN FOR FIRE PROGRAMS

Senator MIKULSKI. You're head of the Fire Administration?

Mr. WALL. Yes, ma'am.

Senator MIKULSKI. Now, who are you under?

Mr. WALL. I'm the career SES, who's normal job is being deputy. Mr. Bragdon resigned as the U.S. Fire Administrator.

Senator MIKULSKI. Where do you fit in organizationally?

Mr. WALL. You're asking who do I report to?

Senator MIKULSKI. Yes.

Mr. WALL. I report directly to the Director of FEMA.

Senator MIKULSKI. You're responsible for all firefighting training?

Mr. WALL. No; if you refer to the logo of the Fire Administration, it's a Federal Eagle showing the Federal fire presence, and above the Eagle's head are four stars. Those stars are representative of data collection, public fire education, research, and training. When the Fire Administration was faced with zero funding in 1983, the Fire Academy was taken away from the Fire Administration.

Senator MIKULSKI. That star of training was the academy, is that correct, sir?

Mr. WALL. Yes, Madam Chair.

Senator MIKULSKI. OK. So you then have the responsibilities for the three stars?

Mr. WALL. Yes, Madam Chair.

Senator MIKULSKI. The fourth star is with you?

Mr. McLOUGHLIN. Under our current organization, that's correct, Madam Chair. I would point out that the Administrator of the U.S. Fire Administration reports to the Director; I also report to the Director. So the superintendent of the Fire Academy would be one level removed from the Director, either way.

Senator MIKULSKI. The superintendent of the Fire Academy reports to you?

Mr. McLOUGHLIN. That's correct.

PREPAREDNESS AND RESPONSE

Senator MIKULSKI. Well, I understand that and you can understand how at times that can be confusing to most people.

Well, that clarifies some of those questions. We, first of all, we're sorry that Mr. Morris is ill and couldn't be with us today. We really hope that the President moves quickly to tell us who is going to be the head of FEMA. For the people who have tried to keep FEMA going under the most difficult of circumstances, we appreciate that. We appreciate the fact that people went in and slept on rocks and it was a terrible time. I tried to get the retirement penalties waived so that very talented experienced retired Federal employees could come in and do that. That's part of this inventory kind of stuff that I think we need. There is no end to this country's capability and generosity if we can get our hands on it, which was the purpose of my questions.

Of course, the kind of training that we do, I think is one of the most important areas of prevention and response. I mean, right now this afternoon with the rush hour beginning on the Capital Beltway, all of you know that it seems like every third or seventh day, there's some kind of chemical hazard spill or a tractor trailer overturning or something else along those lines.

We know that our fire departments are under great stress. The volunteer firefighters need to be retaught on a regular basis. They hold themselves together with bubble gum and bingo games. We just want to make sure that we're ready for duty.

Mr. McNEILL. Madam Chair, I just want to add one point.

The inventory issue is also addressed in the U.S. Fire Administration in terms of their incident reporting system for fires. So there's a lot of data collection on where fires have been held, and the kind of fires. They actually have been using this data to do allocation of resources on a State level.

CAUSES OF FIRES

Senator **MIKULSKI**. I have a lot of other questions that we're going to submit for the record, but this goes to your data collection, sir.

What are most household fires caused by? Faulty equipment, smoking in bed?

Mr. **WALL**. I think most household fires today are caused by faulty people. It's the human element that's very difficult to control and the fatal fire scenario is usually a combination of smoking, an overstuffed chair or mattress and alcohol. Alcohol on the inside of the human, not on the outside, I might add.

FIREFIGHTER SAFETY

Senator **MIKULSKI**. Then when a house catches on fire and the firefighters respond, anything could be in that house. I mean, someone could be a hobbyist and have all kinds of chemicals that are benign within the home but when ignited, even your chemical lawn equipment could be quite dangerous. It could be that the kind of fabrics and furniture we now use could be quite toxic in terms of the fumes inhaled by the people trapped inside and so on.

Isn't that what our firefighters are really up against?

Mr. **WALL**. That's very true.

Senator **MIKULSKI**. I still like to walk in a house and know there's a wooden dining room table and chairs stuffed with cotton and everybody knows what it is.

Mr. **WALL**. That's very true. If you compare what the average home was furnished like 25 years ago and then look at it today, you'll find that there's an awful lot of plastic introduced into the environment that wasn't there in the past. Plastic, once it's ignited, burns with the same sort of intensity as a flammable liquid. Fire prevention inspections, public fire education, the use of fire data, all of these things tie in together and feed back into the system, that tells the Fire Service what their hazards are and how they can protect themselves against it.

Our research in the past developed a firefighting ensemble, everything from helmet to boot, that was an improved version over what the Fire Service people had lived with for years. It's been accepted now by NFPA standards; it's available through local merchants.

We're doing the same thing, we have been for the last 3 years, studying the situation with hazardous material.

Senator **MIKULSKI**. What's available through local merchants?

Mr. **WALL**. Yes, Madam Chair.

FIREFIGHTER EQUIPMENT

Senator **MIKULSKI**. No; what is available?

Mr. **WALL**. It's the Nomex fire coat and bunker pants that you read about quite frequently. Nomex is a registered trademark of

Du Pont. We developed the design specifications and then, of course, it goes to the public sector to market. We're doing the same thing now on hazardous material turn out gear.

Eventually, working with Mr. Peterson's group, State and local programs and support, we want to look at the type of equipment and uniforms that the structural firefighters are currently using in heavy urban search and rescue situations.

Senator MIKULSKI. Did you help move the Nomex equipment so that it was available commercially; you meaning your administration?

Mr. WALL. The Fire Administration, yes, Madam Chair.

Senator MIKULSKI. It's still available off the shelf?

Mr. WALL. We had a 5-year project called Project Fire. We had a fairly substantial contract with developers, with laboratories like Factory Mutual, and Underwriters Labs, and with the International Association of Firefighters.

Senator MIKULSKI. Well, I can't tell you how happy I am to hear that, and to compliment you and the people who work with you.

I'll tell you just a quick little story as we wrap up. When I was a city councilwoman, the wives of firefighters asked me to come to a meeting, and I said, sure. We met in the back of a hall because they didn't want to get into problems with city hall, and you know what that's like. But they essentially had the equipment that a firefighter would wear, and they asked me to put on the jacket and slip on the boots, which of course, were too big. It was the old rubber stuff, and without going through the saga, they took a bucket of water and literally dumped it on me and then said, imagine coming down a ladder carrying somebody who weighs 180 pounds, not even 200 or 300. Well, you know the story. It was awkward, it was cumbersome and so on.

That demonstration was because the wives wanted me to get behind the city council budget to get Nomex equipment. Well, we went to look at Nomex equipment, and this was in the early 1970's. It was viewed as experimental and highly expensive, available only in the most specialized way. To know that 15 years later, this equipment now is available off the shelf to volunteer firefighters, to other people who might be exposed to hazards where this would be available to them in an affordable way, I think, is just a stunning accomplishment. I was worried about my firefighters having the best equipment, the lightest equipment, the most fire resistant or repellant equipment. I learned my lesson that day. Now to hear about what you've been able to do with that, it was a long time coming, but I think this is what the Federal Government can do. You've essentially not only put it in the marketplace but you've put it in the marketplace in a way that the struggling firefighters can afford, and little local government.

Mr. WALL. If I can add something to that, Madam Chair. When we do our research, and basically we are a research engineering and data collection organization, our research is then fed back into the national consensus code process, so that it not only becomes available on the shelf, but there's a national fire code that supports the use of that equipment. That's why today's fire department, from the smallest fire department in Maryland to Baltimore City, you'll find that the Nomex coat today is a standard, rather than the rubber or the duck coat that was prevalent 20 years ago.

Senator **MIKULSKI**. Well, thanks a lot. Thank you everybody.

ADDITIONAL COMMITTEE QUESTIONS

There will be some additional questions which we will be submitting to you for response.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

DISASTER ASSISTANCE

SENATOR MIKULSKI: As we understand it, a private utility would not be eligible for public assistance. How do you ensure that certain segments of the populace not suffer merely because they are served by a private, rather than public utility?

ANSWER: The Stafford Act does not authorize contributions to privately-owned utilities for permanent restoration of disaster damages. The privately-owned utilities throughout the United States and its territories have an exceptional record when it comes to restoring their facilities following disasters. FEMA is not aware of any privately-owned utility which was unable to restore its disaster-damaged facilities in approximately the same amount of time that would have been necessary had the facilities been publicly-owned and eligible for assistance under the Stafford Act. Generally, utilities (both public and private) carry insurance to cover the cost of restoring catastrophic disaster damages to their facilities. In addition, utilities normally have a contingency fund to cover unforeseen things such as disasters, and they have mutual-aid agreements with other utilities. Finally, these utilities have access to private credit markets, generate taxable profits, and pay dividends to investors. Extraordinary disaster losses are business expenses which would presumably reduce a company's tax liability.

If the highly unlikely situation were to arise where a privately-owned utility could not restore its facilities, FEMA's authority to respond would be very limited and at least some of the populace served by that utility would be likely to suffer loss of service and/or increased cost of service. Some emergency work might be eligible under Section 403 of the Stafford Act, which authorizes FEMA to provide assistance essential to meeting immediate threats to life and property, but that authority would probably not be sufficient to meet the needs generated by such a situation.

SENATOR MIKULSKI: Have you completed your after-action reports for any of those states/territories struck by Hurricane Hugo, or for the earthquake in California? What did they say?

ANSWER: After-action reports are not due until 45 days after the Disaster Field Office (DFO) closes. The DFO's in Puerto Rico, the Virgin Islands, South Carolina, and California are still open.

The DFO in North Carolina closed on December 19, 1989. The after-action report for North Carolina is being prepared at this time. FEMA's Region IV, which is responsible for North Carolina, has been hit very hard by disaster declarations in the months since Hurricane Hugo. Of the 18 disaster declarations President Bush has made in FY 1990, 9 have been in Region IV. As a consequence, the North Carolina after-action report has been delayed.

SENATOR MIKULSKI: The Stafford Act authorizes the governor of a state to request the assistance of the Defense Department prior to the declaration of a disaster. Was this authority used in any of last year's disasters, particularly in South Carolina or the Virgin Islands, where the initial Federal response was so strongly criticized?

ANSWER: Section 403(c) of the Stafford Act authorizes the President, upon the request of a Governor, to employ Department of Defense (DOD) resources to perform emergency work prior to a disaster declaration. The authority was used in Puerto Rico, where the Governor specifically requested DOD assistance before requesting a disaster declaration. It was not requested during any other Hurricane Hugo disasters; in each instance, including South Carolina and the Virgin Islands, a Presidential disaster declaration was granted almost immediately upon receipt of the Governor's request. Therefore, with the full authorities of the Stafford Act available very early on in the disasters, including the tasking of DOD assets by FEMA, there was no need for Section 403(c). Any shortfalls in the Federal response were not due to a failure to employ Section 403(c).

SENATOR MIKULSKI: If this authority is used but no disaster ever declared, does FEMA, or does the state, reimburse DOD? Would the basis for using this authority be whether it appears that a major disaster will be declared, or is approval more liberal?

ANSWER: In all cases, FEMA reimburses DOD for authorized work. Whether or not a disaster is actually declared, the state must then reimburse FEMA for the non-Federal share, ordinarily 25 percent, of the DOD bill. The basis for authorizing Section 403(c) would be threats to life or property which cannot be effectively addressed with state and local resources. The issue of the likelihood of qualifying for a Presidential declaration is a secondary consideration in the decision on Section 403(c) assistance.

SENATOR MIKULSKI: Relatedly, we understand you reimburse the Red Cross and Salvation Army for certain of their costs. Could you tell us which ones?

ANSWER: FEMA does not reimburse Red Cross costs. FEMA does reimburse the Red Cross for providing assistance on behalf of FEMA in the interest of providing faster assistance and reducing Federal administrative expenses. For the past several years FEMA has had an agreement to pay the Red Cross when the Red Cross provides transient accommodations (hotels and motels) to people who need them because they cannot live in their homes due to disaster damage. These people are eligible for temporary housing, including transient accommodations, and would receive this help directly from FEMA if the Red Cross did not provide it. The arrangement with the Red Cross is faster, because the Red Cross does not have to wait for a Governor's request and Presidential declaration of a major disaster. FEMA assistance for these accommodations can go back to the start of the incident. The arrangement saves administrative expenses because the Red Cross receives only the cost of the accommodations provided; FEMA does not reimburse administrative expenses.

FEMA also has a contract with the Red Cross for specialized technical services. Under this contract, FEMA pays for the cost of one advisor for each FEMA regional office, and one advisor for the Emergency Management Institute in Emmitsburg, Maryland. These advisors are involved in a variety of activities designed to improve the preparedness and response capability of the voluntary sector, in coordination with government, to respond to the needs of people affected by emergency and disaster incidents. These advisors also form an integral part of the response team in disasters, serving as liaison officers between FEMA and the voluntary agencies. FEMA does not pay administrative expenses or profit under this contract, only salary related expenses.

SENATOR MIKULSKI: One obvious factor delaying aid to victims is the case of grant assistance to those who may be eligible for an Small

Business Administration (SBA) loan. These people must apply for the loan, which takes time, and then in some cases are turned down, and then must be reconsidered for Individual and Family Grant (IFG) assistance. Would it be possible to give these people the IFG funds up-front on the condition that it be repayable if the applicant was subsequently approved for a loan? Do you have information on how many are required to apply for a Small Business Administration loan, but subsequently declined?

ANSWER: A rough sampling of our experience in the recent disasters indicated a spread of between 10 and 40 percent of applicants being referred to IFG either after being declined a loan by SBA, or receiving a loan amount that did not cover all of their eligible expenses. We are considering alternatives to prevent this delay of needed assistance, including the solution you propose.

SENATOR MIKULSKI: Is our understanding correct that loss verification for temporary housing, IFG, and SBA are now done with one inspection? Was flood insurance claims adjustment also considered for the merged verification and found impractical for some reason?

ANSWER: Your understanding is partly correct. Under FEMA's combined verification system, FEMA contract inspectors perform the inspections for the housing and IFG programs. SBA performs its own inspections. FEMA and SBA have experimented with joint verifications, but have not adopted this approach because of differences in the type of information each program requires, and attendant concerns about slowing the delivery of assistance to victims. Both housing and IFG are needs-based programs; SBA is a loss-based program. In addition, fundamental administrative procedures differ: FEMA accepts applications for housing and IFG when the victim first visits the Disaster Application Center or calls the Hotline; SBA applications are completed by the victims at home and returned at a later date.

A similar situation exists with respect to flood insurance, which is also a loss-based program. Adjusting an insurance claim is usually much more detailed, and time-consuming than the inspection necessary to determine the need for housing or personal property assistance. Moreover, most people with insurance do not need or apply for housing and IFG assistance, so the case loads do not overlap to the extent that would justify joint inspections. When we do have applicants for both programs, we have an arrangement where our inspection serves as the basis for an advance payment on the flood insurance claim, speeding assistance to victims so they can stay in their homes.

SENATOR MIKULSKI: We understand France and the United Kingdom also had to provide disaster assistance to their territories in the Caribbean. Do you have any information as to how the adequacy and timeliness of their response compared to the U.S. response in Puerto Rico and the Virgin Islands?

ANSWER: FEMA has no direct knowledge of the timeliness and nature of their Caribbean responses to Hurricane Hugo, and therefore no basis for comparison with the Federal efforts in Puerto Rico and the Virgin Islands.

SENATOR MIKULSKI: Has FEMA studied the disaster relief policies and procedures of other nations? What are some of the ways in which the U.S. is unique -- either better or worse?

ANSWER: FEMA has not conducted such a study. It could be very useful, and warrants consideration. The Agency has, however, briefed or coordinated with the staff of several nations' disaster relief organizations. An overall impression is that most other countries rely far more heavily on their military to conduct disaster response and recovery operations.

SENATOR MIKULSKI: FEMA's 1990 S&E budget request for the disaster relief administration was $10,373,000 to support 233 workyears. The Congress increased that amount by $1 million ($881,000 after Gramm-Rudman-Hollings) to improve FEMA's ability to respond to natural disasters, and specifically directed that future budgets reflect the actual FTE's that can be supported with the appropriation requested.

For fiscal year 1991, FEMA is requesting not only the additional $881,000, but another $393,000 above and beyond that, a total of $11,647,000. In total, that's an increase of 12 percent above the amount requested in 1990 to support 233 workyears, yet FEMA continues to show only 233 workyears. Does this mean that 233 workyears are all that's needed by FEMA? What are these additional funds being used for?

ANSWER: FEMA believes that 233 FTE will be sufficient in 1991 assuming a "normal" disaster year. The additional funds requested in the FY 1991 budget submission are required to adequately support the 233 workyears. Heretofore, there have been insufficient funds to meet the authorized staffing level (actual FTE usage for the Disaster Assistance Programs during FY 1989 was 221), and administrative travel and training have been extremely curtailed.

SENATOR MIKULSKI: The President's budget provides for significantly reducing SBA's disaster loan program by not making loans to those capable of obtaining credit elsewhere. Do you envision any impact of this action on your programs? For example, if SBA finds an applicant to be capable of obtaining credit elsewhere, and he is subsequently declined by a commercial lender, will he go to IFG or go back to SBA? Might not it also be relatively easy to be turned down for a commercial loan if one wanted to be, in which case either you have a significant increase in IFG grants and/or SBA has a significant increase in loans at its lowest rate.

ANSWER: Assistance through IFG is available only to those who do not meet SBA's loan criteria concerning income or repayment ability. Should SBA determine an applicant to be creditworthy on the private market, they would not normally be IFG candidates. A companion proposal is to establish a single interest rate for those loans SBA would make. This latter proposal could conceivably increase the number of IFG applicants, based on their inability to carry a loan at the higher interest rate.

SENATOR MIKULSKI: What will be your 1991 maximum IFG grant?

ANSWER: At the beginning of each fiscal year, FEMA requests information from the Department of Labor on the Consumer Price Index for All Urban Consumers, and based upon that index, publishes a revision to the grant amount in the Federal Register. We will publish again after October 1, 1990.

SENATOR MIKULSKI: FEMA is supposed to supplement state and local efforts. How do you monitor or control this? For example, we heard an allegation of one state withholding its own equipment to avoid the wear and tear on it.

ANSWER: FEMA satisfies the requirement for Federal assistance to be supplementary to State and local efforts in two ways: first, by requiring that disasters be beyond State and local government capability to respond before we recommend that the President make a declaration; and second, by requiring non-Federal cost-sharing in certain assistance programs.

There is no requirement that State and local governments must use their own equipment in performing relief work, although most will do so if the equipment is undamaged as it is faster and more cost-effective for them.

SENATOR MIKULSKI: Your regulations implementing the Stafford Act have made it quite clear that only natural disasters will be declared a major disaster. What are some of the types of situations that might warrant declaration of an emergency, and why the relatively small dollar ceiling on them?

ANSWER: In addition to natural events, major disasters can be declared, according to the language of the Stafford Act, for a fire, flood, or explosion, regardless of cause. Legislative history would indicate that an emergency is intended to be declared for unusual, non-natural events which have not been anticipated in other legislation. The small dollar ceiling of $5 million, while it can be exceeded under certain circumstances, was put into the Stafford Act as an indication that only essential emergency response requirements would be met under the Stafford Act for these unanticipated events in order to assure some type of Federal Assistance to meet immediate needs while the Congress evaluated the need for special legislation to address the problem. One example of an event which has been mentioned for consideration of an emergency declaration is the possible crash of a satellite into a populated area of the United States which could cause damage to property and require emergency shelter for affected citizens.

SENATOR MIKULSKI: Do most states have disaster assistance programs? A concern is the apparent inequity that the Federal Government will step into a major disaster and help those who suffer even minor damage, but in a very localized occurrence, even though homes may be totally destroyed, the Federal Government provides no help. Has any consideration been given to this problem, or does state and local government cover this?

ANSWER: The law specifies that Federal assistance is provided to supplement the efforts and available resources of State and local governments, upon a finding by the President that the severity and magnitude of a disaster is beyond their capabilities to respond. So there is a presumption that not only State and local governments, but also local and national voluntary relief organizations and the insurance industry are significant players in disasters of all magnitudes--most of which never receive a presidential declaration. The major form of Federal disaster assistance to individuals is the SBA disaster loan program. The predominant Federal disaster grant programs--temporary housing and IFG--are designed to meet basic disaster-related needs, not to restore victims to their predisaster status.

SENATOR MIKULSKI: During the recent disasters, FEMA's Disaster Assistance staff was stretched very thin, to the point where FEMA staff outside the Office of Disaster Assistance Programs were being used. Did this include personnel from the "dual-use" Office of Civil Defense? Were staff from the Federal Preparedness Program used? What was the total of FTEs or personnel from non-DAP areas used in disaster relief in FY 1990?

ANSWER: The extraordinary demands of Hurricane Hugo and the Loma Prieta earthquake disasters presented FEMA with a critical need for additional disaster assistance personnel. In order to fulfill this need, FEMA deployed to the field an additional 258 permanent and temporary fulltime employees (Headquarters and Regions) detailed from the offices of National Preparedness, Civil Defense, Natural and Technological Hazards, Federal Insurance Administration, Training, Comptroller, Chief of Staff (Acquisition Management, Administrative Support, Security and Personnel).

SENATOR MIKULSKI: What is the current size of FEMA's reservist force? Should (and can) it be increased, and by how much? What would be the increased cost of maintaining a large number of reservists? How do you develop this roster of personnel?

ANSWER: FEMA currently has approximately 1,400 reservists. Although the size of the cadre could be increased, and the costs involved would be minimal, the number currently on board has been adequate in the past except for the highly unprecedented needs created by Hurricane Hugo and the Loma Prieta earthquake. Our reservists are trained as specialists. Substantially increasing the number of reservists would, unfortunately, have a negative impact on their skills due to the fact that they would be deployed less frequently. Equally important, it would make it difficult to retain reservists who may not be activated for protracted periods. We are currently evaluating our cadre, however, to add more depth in certain specialties. Positions that require employees that are not specialists are generally filled by local hires. Local hires are cost effective to the Government in that they are not paid for travel or per diem. In addition, hiring local citizens provides an opportunity for additional money to be brought into the affected community.

FEMA's reservists have come from a variety of sources. A large portion of the roster is made up of people who were employed as local hires during a disaster, and were invited to become reservists. Many reservists have come to us via word-of-mouth--current reservists have recommended our program to acquaintances. From time to time we have recruited through organizations such as the American Association of Retired Persons, the National Association for the Advancement of Colored People, and others. FEMA has also approached engineering and other professional societies when looking for employees with specific qualifications, such as engineers and architects.

SENATOR MIKULSKI: An area of concern for certain school districts is the difficulty they are having in receiving disaster assistance for damaged school buildings from the Department of Education. Does FEMA provide any type of assistance in this area?

ANSWER: Yes. Under the Stafford Act a school district is an eligible applicant for assistance from FEMA and assistance may be granted for the restoration of publicly owned school facilities. However, disaster regulations provide that generally assistance for permanent restoration is not available under the Stafford Act when another Federal agency has specific authority to restore the same facilities. Since the Department of Education has the authority to provide assistance to repair school facilities when the President declares a Major Disaster, FEMA does not provide assistance for those same facilities.

There are some facilities belonging to school districts which are not eligible for Education assistance. Facilities which are not necessary for the provision of a program of free public education, such as the football stadium where admission is charged for events or an administration building which contains no classrooms, are not eligible for assistance by Education. FEMA has granted assistance to restore these types of facilities. However, FEMA does not grant assistance for items which are eligible for Education funds, but, for one reason or another are not funded or where Education funding is delayed.

SENATOR MIKULSKI: One complaint we heard was of long waiting periods at the DACs, but we understand a new system of making appointments had been implemented. Does this mean there were long lines to make an appointment?

ANSWER: In a few instances there are long waiting periods at Disaster Application Centers (DACs). Sheer volume, such as in the Hurricane Hugo disaster in Puerto Rico, accounts for some of this especially when adequate, undamaged facilities to use as DAC's do not exist. When there are long waiting periods, it usually stems from people lining up hours before the DAC opens. Years ago we instituted an appointment system, where individuals are given appointment times to return to the DAC to be registered in manageable timeframes. The elderly, handicapped, and individuals who have suffered the most severe losses are given priority appointments (i.e., asked to remain and be registered first), while those with lesser losses are asked to return at a later time or date. This has assisted in diminishing any long lines.

In November 1988, we instituted a teleregistration system as an option to DAC's for individuals to utilize in registering for assistance. Many individuals prefer the convenience of registering by telephone, which eliminates the need for driving to a fixed site, taking time off work or away from repairing damaged homes, or arranging for a babysitter. It has also proven a great benefit to the elderly, handicapped, shut-ins, and those who depend on others for assistance. Our research has also found that forms completion is facilitated when individuals have ready access in their homes to information they often forget to bring to a DAC.

SENATOR MIKULSKI: Isn't it accurate to say that disaster recovery is primarily a state and local responsibility, with Federal assistance provided as needed? At the same time, however, is not the adequacy of state and local planning also a FEMA responsibility? Are their plans and your review of them adequate? Is more training of state and local emergency planners and responders needed?

ANSWER: State and local officials have the primary responsibility for emergency response planning as well as for recovery operations. FEMA provides assistance in the way of guidance, training, and funding for the salaries of the State Population Protection Planners and local Emergency Management staffs who develop the state and local emergency operations plans (EOP's). Each state emergency management agency is responsible for reviewing state and local plans to assure their adequacy and for completing criteria checklists with crosswalks for each plan in accordance with FEMA guidance. FEMA reviews these EOP checklists/crosswalks and a percentage of the actual plans for compliance with the requirements for FEMA funding.

The need to train new emergency planners and response personnel is always present. As policy changes or new emergency management programs emerge, revised or new training should be provided to update the state and local emergency management and services personnel.

SENATOR MIKULSKI: We understand you review all state plans, but what control do you exercise over county and local planning, and private sector planning? For example, even though a utility may be privately owned, don't you need some assurance that they have emergency plans in place; spare poles, lines, and generators on hand; and the like?

ANSWER: Each state emergency management agency submits checklists (including crosswalks) for all EOP's produced by state and local planners. FEMA reviews all of the EOP checklists/crosswalks as well as all EOP's written by the State Population Protection Planners and 20 percent of the EOP's written by the local emergency management staffs.

FEMA has no authority to exercise control over planning done in the private sector. However, all state and local emergency management agencies are urged to coordinate their emergency planning and operational activities with the nearby business and industry concerns and to encourage and assist (if asked) local firms to develop emergency operations plans for their facilities. Also, FEMA has produced planning and mitigation guidance for business and industry which provides suggested planning criteria for developing emergency operations plans and mitigation measures to protect personnel, facilities, and equipment from disaster.

SENATOR MIKULSKI: Do you require local plans to have a certain level of specificity in them; for example, do they identify streets and highways that need to be cleared to provide access to hospitals, police stations, utility companies; identify critical facilities that may need generators, and so on?

ANSWER: Other than specific requirements to ensure the survivability of emergency operating centers, the FEMA guidance for developing state and local emergency operations plans covers only general responsibilities and activities for preparedness and emergency operations. The amount of detail describing the specific response assignments for the various emergency services is determined by the planner when the plan is developed for each individual jurisdiction.

FEMA does require the jurisdictions that receive FEMA funding to exercise all functions of their emergency operations plans yearly on a rotating basis to include one full-scale and three functional exercises during a 4-year period. As a result of these exercises, in which all emergency services participate, the emergency operations and response and recovery capabilities are evaluated. Then, the emergency operations plans are refined and updated to correct deficiencies encountered in exercise play. (The same process to improve the plan is followed after actual disaster operations.) The value of exercising emergency operations plans was amply proven by the emergency services' response to the Sioux City jetliner crash last summer. The local authorities readily credited their commendable performance in responding to that tragedy to the fact that they had previously participated in exercises of the community's emergency operations plan.

SENATOR MIKULSKI: According to a recent news article, you have taken some unprecedented actions in California, including repairing residential hotels and providing vouchers to the homeless. Are these private, profit-making hotels? Are you providing grants, or loans? Is the state sharing in the cost?

ANSWER: Yes, they are private, profit making hotels. FEMA is not providing either grant or loan assistance to these hotels; FEMA is providing financial assistance to local governments to help restore shelter capacity to levels necessary to provide shelter to people displaced from shelter by the earthquake. The State is paying 25 percent of the cost of this assistance.

SENATOR MIKULSKI: Why were low interest rate SBA disaster loans apparently an unsatisfactory approach?

ANSWER: Some of these hotels will receive loans from SBA, provided they have repayment ability for the loan. Many of these hotels will require major rehabilitation to bring the structure up to earthquake code. This work will take time. In addition, it is felt that after the owners make this investment, the hotels will no longer be affordable to low-income residents.

SENATOR MIKULSKI: What type of vouchers were provided to the homeless? How do they differ from HUD vouchers or certificates? If you are using disaster funds to house pre-earthquake homeless, is that within your legal authority?

ANSWER: FEMA's financial assistance will be used to expand existing voucher programs operated by local government in most cases. If HUD funds are used to help fund such programs, FEMA's assistance will be used to increase these programs to meet earthquake created needs, when housing assistance was not provided. FEMA is not providing temporary housing assistance under the Stafford Act to house pre-earthquake homeless people.

SENATOR MIKULSKI: What would you see as the cost implication of these actions for future disasters?

ANSWER: It is impossible at this time to calculate the cost implications of providing emergency shelter in future disasters. Our action in California, however, is not precedent setting, despite news reports to the contrary. The Federal Government has had authority to provide supplementary assistance related to emergency shelter for many years. Normally, doing so is not necessary due to the work of the Red Cross and other voluntary agencies, and State and local governments. There have been several other instances, most recently in Hurricane Hugo, when FEMA determined it appropriate to provide supplemental assistance for emergency shelter.

SENATOR MIKULSKI: The article indicated these actions were to settle a suit against FEMA. What was the nature and status of that suit at the time it was settled?

ANSWER: The suit was filed to force FEMA to provide temporary housing to people who were found ineligible for housing assistance because they had no primary residence when the earthquake occurred. The suit also asked for FEMA to adjust its procedures for distributing temporary housing assistance to shared households, and to require the IFG program to adjust its appeal procedures. When the lawsuit was settled the Court had not ruled on the merits of the plaintiffs' complaint. At this time FEMA is reviewing the proposals for emergency shelter financial assistance which have been submitted by local governments in the aftermath of the earthquake.

SENATOR MIKULSKI: Several actions were also taken in Hurricane Hugo that are highly unusual, if not unprecedented. For example, waivers of the state's 25% share of public assistance and the complete building of homes in the Virgin Islands. Which states have received a waiver of their 25%?

ANSWER: None received a total waiver of cost-sharing provisions. Partial waivers on a sliding scale basis were granted for the Virgin Islands, Puerto Rico, and South Carolina for Hurricane Hugo damage. Some measure of cost sharing was retained in all cases.

SENATOR MIKULSKI: In waiving their share, did you examine the financial capabilities of the states and territories to cover their share of the costs? How do you factor in the fact that a substantial portion of the state share is often actually paid by county and local government?

ANSWER: Although financial capability is a factor, the primary consideration in granting a partial waiver was the severity and magnitude of the damage. FEMA's interest was in providing some relief to both the State and the affected local governments by increasing the Federal share and decreasing the non-Federal share.

SENATOR MIKULSKI: Although you testified that a county could give a private company such as a grocery store or hardware store a FEMA-provided generator on the basis that it was essential to life or property, isn't it a fact that this seldom if ever happens? Why? For example, is it because state or local government sees no need for these facilities to open, and thus doesn't request a generator, or is it a FEMA determination that such services are not essential to protecting life or property?

ANSWER: Section 403 of the Stafford Act authorizes Federal agencies, when directed by FEMA, to provide assistance essential to meeting immediate threats to life and property. If it is determined that providing a generator or other equipment to a private company is essential to meeting immediate threats to life and property, FEMA is authorized to provide such equipment to a state or local government for use by the private company or to reimburse the state or local government for providing it. As you noted, equipment is seldom provided to private companies. However, it is not because the State or local government sees no need for these facilities to open or that FEMA has determined that such services are not essential to protecting life and property. The primary reason is that there are very few disasters where the damage is so severe that the services of a specific private company such as a grocery store or hardware store would be essential to meet an immediate threat to life and property. Generally, there are private companies that remain in operation following a disaster which can meet such a threat without provision of Federally-owned equipment. In a situation such as a complete electric power outage where no private companies are able to operate, state and local governments are reluctant to provide Federally-owned equipment to one specific private company because of a concern that similar private companies may raise charges of favoritism. Due to that concern, they attempt to find another way to alleviate the threat. In the unusual situation where there is a threat to life or property that could be alleviated only by providing equipment to a private company, that action is encouraged by FEMA.

CIVIL DEFENSE MATTERS

SENATOR MIKULSKI: The Civil Defense budget includes many items that presumably, once in place and requiring only maintenance, would drop greatly in cost; e.g., emergency operating centers and communications. Do you have any figures on what has been spent on Civil

Defense thus far and how much more time and money is needed to get everything in place?

ANSWER: Over the past 40 years, following the passage of the Federal Civil Defense Act of 1950, nearly $4 billion has been appropriated for civil defense -- an average of roughly $98,000,000 per year, or about 41 cents per capita on average.

This money has paid for the development of a cadre of State and local emergency management personnel, a nationwide warning system, a system of State and local emergency operations centers, a system of radiological detection equipment, a nationwide fallout shelter survey, emergency operations plans, and training in the use of these systems.

In the current budget of $128,911,000 in program funds, approximately $117,200,000, is essentially maintenance and only $11,700,000 is allocated to the development of needed capabilities. Today, due to the level of Congressional funding and Presidential guidance, our goal is not to attempt the development of a complete in-place civil defense system for this country, but instead to develop an ability to surge such a system when required. However, current budget levels will not bring us to a base program from which surge efforts will provide reasonable protection to the American people. This surge policy will be included in the Administration's about-to-be-undertaken review of the civil defense program.

After the completion of that review and the development of a long range plan to implement all aspects of the resulting guidance, we hope to be able to give a more definitive answer to this question.

SENATOR MIKULSKI: Presumably, we've been working on getting the Civil Defense system in place for 40 years. Is it a goal so ambitious as to be unachievable?

ANSWER: On the positive side, the U.S. Civil Defense Program:

- Supports this Nation's State and local emergency management infrastructure by contributing up to 50 percent of the salaries and administrative expenses of approximately 7,000 full and part- time personnel.
- Subsidizes a portion of the all-hazards emergency preparedness training of over 74,000 emergency management personnel each year.
- Developed and put in place a nationwide warning system, which was used approximately 7,000 times last year by State and local emergency preparedness personnel and the National Weather Service to warn of impending natural or technological emergencies.

On the negative side, it is true that despite all that has been accomplished in the past there is much yet to be done. Current Presidential policy requires FEMA to develop a base-level capability from which additional protective actions could be surged in time of crisis. We plan to review Civil Defense over the coming year to determine what goals are now appropriate. A plan to achieve this base-level capability is presently being developed and will be reviewed within the Administration. Once approved, the plan will be shared with the authorization and appropriations committees of both Houses of Congress.

SENATOR MIKULSKI: In the threat analysis SLPS provided this subcommittee, local emergency coordinating officers ranked the various threats facing them. To what extent does such a ranking by them, or you, influence your allocation of resources among your various programs?

ANSWER: The objective of the civil defense program is to build a survivable crisis management capability at the State and local levels to mitigate against, prepare for, respond to and recover from the full range of emergencies, including attack. The primary focus in allocating resources is based on (1) the necessity of building the State and local emergency management infrastructure of personnel and emergency operations plans, and (2) the requirement for providing adequate hardware, communications and facilities to support State and local emergency managers before, during and after emergencies.

While rankings are useful in determining the relative severity or potential impact of threats facing individual jurisdictions, the current primary objective is still preparing for a worst-case scenario. Therefore, civil defense program emphasis is placed on ensuring that capability is developed for not only the full range of emergencies, but the full range of consequences posed by all threats. For example, a community that is developing a nuclear attack preparedness capability (a strategic nuclear attack being considered the most severe of all potential threats), is, at the same time, establishing the capability to meet the full range of natural and technological threats as well. We believe that all States receiving civil defense assistance are, in fact, building capability to respond to all emergencies, regardless of their "ranking". This assistance provides an equitable and balanced program for all State and local governments to prepare for the threats which face them.

SENATOR MIKULSKI: FEMA has nearly twice as many program people in Civil Defense and Federal Preparedness as in all other programs combined. What process or factors result in this allocation?

Answer: Workyears are allocated based on FEMA's budget request and subsequent Congressional approval. The following table compares workyears budgeted in FY 1991 versus the Emergency Management Planning and Assistance (EMPA) dollars which these people administer. Workyears for programs with no EMPA budget authority have been excluded from the table.

Program	Workyears	EMPA ($000's)	Ratio (WY/EMPA)
Civil Defense	388	132,986	.00292
Federal Preparedness	977	110,377	.00885
Defense-Related	1,365	243,363	.00561
Nat'l EQ Prog. & Other Hazards	58	12,038	.00482
Technological Hazards	117	5,351	.02187
Training & Fire	109	16,290	.00669
Non-Defense Related	433	78,702	.00550

Basically, the table shows that those programs which rely heavily on contracts (e.g., Federal Preparedness and Technological Hazards) require more personnel than do those programs which rely more heavily on grants (e.g., Civil Defense) with programs that use both instruments somewhere in the middle.

For those FEMA programs which do not use EMPA funds, it can be said that the nature of the program is indicative of the number of workyears requested. For example, a level of 233 workyears to administer the Disaster Relief Fund is adequate for a "normal" disaster year because a large part of the program is grants for which people are eligible once a disaster is declared. Many of the operating expenses associated with the National Flood Insurance Program are handled through a contract and do not require direct workyears. Under the Emergency Food and Shelter Program, FEMA provides one grant to the National Board which then makes grants to local boards. FEMA shares National Board responsibilities with six charities. Finally, FEMA's Management and Administration and Inspector General personnel provide support to all of FEMA's programs.

It should also be noted that FEMA's programs are such that personnel from several programs may be necessary to provide a truly integrated response. For example, the Civil Defense program addresses multiple hazards. Communications equipment and personnel funded under the Federal Preparedness program provided the only communications support to the Virgin Islands after Hurricane Hugo. Personnel funded under the Emergency Management Institute program in the Training and Fire Programs activity support the Federal Preparedness programs through course development and delivery.

SENATOR MIKULSKI: Can you quantify the extent to which Civil Defense money is meeting non-attack related requirements?

ANSWER: Virtually all of it meets non-attack-related requirements. Comparatively little is unique to attack preparedness, probably as little as $2.5 to $3 million, for military reservists, fallout shelter analysis training, surge planning, and maintaining nuclear attack planning base data. As much as $12 to $15 million in addition might clearly be predominantly attack related but also has clear dual-use application. The Radiological Defense system is the largest single part of this amount. The electromagnetic pulse protection is an attack element, but provides excellent protection against power surge and lighting strikes. To put the remainder in perspective, it is worth repeating from our testimony that "over three out of every four budget dollars requested, or nearly 76 percent of all funds, is in the form of direct support to State and local civil defense all hazard emergency management organizations". There is relatively little that we ask State and local personnel to do that is uniquely nuclear attack specific. The great majority of civil defense funded State and local emergency management personnel spend their time dealing with the population protection measures necessary to protect lives from natural and technological hazards as well as attack. Indeed, it is civil defense funded personnel who participate in all of the otherwise non-civil defense funded natural and technological hazard programs found in the Comprehensive Cooperative Agreements with the States. These other programs, such as hazardous materials and hurricane preparedness, do not provide funding for State and local personnel; thus, by-and-large, it is often the civil defense funded emergency program manager who picks up each of these responsibilities.

The challenge we face as stewards of the National Civil Defense Program is how to maximize the benefits of civil defense appropriations by insuring that the national security aspects of civil defense are applicable to natural and technological hazards protection. We have met that challenge and met it well.

We have a lot of disaster experience in this country, unfortunately, and if there is one thing that we see time and time again, it is that where civil defense funded equipment exists and is tested on a regular basis, and where civil defense funded personnel are in-place and exercise their plans on a regular basis, the systems work and work well. When the equipment is not tested regularly and personnel do not exercise regularly, the system breaks down.

That pattern was borne out again and again in last year's disasters: the plane crash in Sioux City, Iowa; the role played by Emergency Broadcast System stations in St. Croix and Puerto Rico during hurricane Hugo; the evacuation for Hugo in South Carolina; and the response to the Loma Prieta earthquake in California.

Thus it can fairly be said that with but a few minor exceptions, virtually all civil defense monies are useful in meeting all-hazards, attack and non-attack, related requirements.

SENATOR MIKULSKI: Could you explain the proposed increase for Civil Defense/State and Local Direction, Control and Warning?

ANSWER: It provides assistance in the development, purchase, maintenance, repair and replacement of critical command, control and communications facilities, systems and equipment. The DC&W components, Emergency Operating Centers (EOC's), Emergency Broadcast System (EBS) stations, Warning and Communications Systems (W&CS) are used everyday somewhere in this country to reduce casualties and property losses in all types of emergencies. They are also the same components of our national civil defense network that will provide critical command, control and communications capabilities during a national security emergency.

Funding for the DC&W program, over the past several years, has been insufficient for meeting the requests of State and local governments. This has resulted in the degradation of State and local DC&W facilities, systems and equipment which ultimately impact upon their capabilities to fulfill their emergency management mission. In addition, there have been numerous technological advances in this area (e.g., communications, ADP applications) that States and localities have not been able to take advantage of to enhance their response capabilities.

The requested increases were made in response to increasing requirements to support State and local needs. For example, in Fiscal Year (FY) 1989, FEMA received funding requests totalling $9,708,338 for State and Local Warning and Communication Systems support. In that year, there was only $461,829 available for that purpose. As a result, $9,246,509 in State and local requirements could not be met. In FY 1990, there are requests for $12,981,692 against $907,500 in available funds for the same element. Thus, this year the delta between available funds and requested funds is $12,074,192.

Our experience with requests for funding support for Maintenance and Services, which is funded under Other State and Local Direction and Control, has been similar. In FY 1989, we received funding requests totaling $2,328,313 for which only $755,000 was available; while the FY 1990 figures are $3,692,777 in requests and $998,000 in available funds respectively.

In every element of the DC&W program, we cannot meet the requests for financial support that the States, localities and EBS stations identify as their requirements. To address this, we are making requests for increased funding and are selective in funding projects which enhance development of State and local SCM capabilities.

SENATOR MIKULSKI: A widely publicized problem in the Virgin Islands was the total loss of communications with the Islands for the first few days. However, FEMA has a program to establish survivable communications with all States and territories. Can you explain this?

ANSWER: Earlier this year FEMA conducted a field assessment of the performance of the Virgin Islands DC&W systems during Hurricane Hugo. The hurricane subjected many areas to winds in excess of 200 mph, and in certain areas it is estimated that the wind speed exceeded 250 mph.

FEMA found that those systems' failures were predictable. Emergency generators and communications and warning systems failed because of: 1) improper maintenance; 2) failure to have emergency fuel storage; 3) antenna collapse; 4) lack robust and redundant systems; and 5) loss of emergency power. Antenna collapse in some cases resulted from lack of maintenance, the compromising of structural integrity by overloading with microwave dishes, and by being knocked over by trees or other neighboring hazards.

It is significant to note that these systems, including EBS, worked well during the pre-strike period. However, once the storm stuck, many of the conventional systems, such as the public switched telephone network, were knocked out and communications were disrupted. Areas isolated by geographical barriers were completely cut off for long periods of time. The only EBS station that maintained its operational capabilities throughout the emergency was a station on St. Thomas which was previously protected through FEMA supported EBS program.

We found that the lack of Survivable Crisis Management (SCM) planning in the Virgin Islands had a tremendous negative impact on the capabilities of its civil defense community to respond in the trans- and post emergency periods. Under the concept of developing and implementing an SCM plan, the deficiencies which contributed to the aforementioned failures would have been recognized and appropriate corrective actions could have been taken.

In a review of our records, FEMA determined that in FY 1989 the Virgin Islands received a grant for $4,875 for the purchase of high frequency radio equipment. In FY 1984, a grant for $240,000 for the purchase of an inter-island microwave communications system, and in FY 1985, a grant for $400,000 for the development of the State EOC.

The microwave equipment which was purchased and stored in a warehouse was destroyed by a fire. Prior to Hugo, the Virgin Islands government committed to repurchase the required microwave equipment with its own funds. It is FEMA's understanding that the EOC is scheduled to be developed by the Corps of Engineers at Hermon Hill. The ground breaking is scheduled for April 1990.

As part of FEMA's mission to work with State and local governments in the development of their emergency preparedness capabilities, FEMA's Office of Civil Defense has made a preliminary determination to award a grant in the amount of $10,000 to the Virgin Islands in FY 1990. The grant is to be used for the purchase of Radio Amateur Civil Emergency Services (RACES) equipment. In addition, FEMA is working with the Virgin Islands to develop an FY 1990 SCM proposal.

TRAINING AND FIRE PROGRAMS

SENATOR MIKULSKI: If the NFA and the USFA were re-united, wouldn't that essentially leave the Office of Training handling only the Emergency Management Institute? What would be FEMA's rationale for retaining the Office of Training?

ANSWER: The Office of Training is an organizational entity consisting of the National Fire Academy (NFA), the Emergency Management Institute (EMI), the NETC Operations and Support Division, the Program Development and Evaluation Division, and the Educational Technology

Division. If the National Fire Academy were removed from the Office of Training and placed under the U.S. Fire Administration, the Office of Training would still have responsibility for the operation and maintenance of the facility; and supporting the educational programs of NFA and EMI through admissions and registration, procurement, budget and finance, graphics and media production, management information systems, housing, student transportation, library services, videoconferencing, and curriculum coordination and long-term evaluation.

SENATOR MIKULSKI: Exactly what role does the Office of Training now have with respect to the Fire Academy? Specifically, does anyone outside the Fire Academy have the expertise to dictate fire-related course content, training priorities, etc.?

ANSWER: The Office of Training was established to provide for a greater integration of all training programs within FEMA to improve the Federal, State, and local governments, and fire service response to all emergency situations. As FEMA achieves its full mission, the mission of the National Fire Academy will also be achieved. Overall Agency training policy guidance is provided by the Director of the Office of Training. The Superintendent of the Academy provides input into the policy decisions and is responsible for implementing policy and program guidance within the Academy. This includes the establishment of curriculum, course content, training priorities, and course development and delivery schedules. Suggestions regarding course content are provided by the U.S. Fire Administration as well as other FEMA program offices.

SENATOR MIKULSKI: Last year the Senate Appropriations Committee directed FEMA to report to it by January 31st of this year on the funding of site administration costs at Emmitsburg. We appreciate the timely response, but do have a few questions.

Your report recommends that the costs be split equally between fire and non-fire functions, which as we understand it, would consist of nothing more than redesignating 6 or 7 fire FTE's in site administration as EMI FTE's. But as you are no doubt well aware, Congressional adoption of such a proposal would be perceived in the fire community as our having given away these fire personnel to non-fire functions. Could you explain why you believe such a perception to be erroneous?

ANSWER: As noted in the report, the rationale for the level of site support resources reflected under the respective NFA and EMI budget program elements evolved over a period of time based on a variety of factors. The proposed transfer would result in no change in function for the 6-7 FTE's in question. They are currently located in site administration and would remain in the NETC Site Administration program element, with the only change being that they would be listed under the EMI NETC Site Administration program element rather than the NFA NETC Site Administration program element. The problem noted stems from the fact that the fire community views all resources under the NFA budget program as being provided entirely for NFA. However, NFA NETC Site Administration is, and has been for some time, a separate program element. The transfer would result in no net loss or gain for either school but would balance the resources reflected in the NETC Site Administration program elements within the EMI and NFA budget programs.

SENATOR MIKULSKI: Option four of the report would rectify this, as it would return those people to fire programs, and have EMI reduce its program activities or obtain additional FTE's from elsewhere in

FEMA. Has FEMA given any thought to where these FTE's would come from, or whether EMI would be reduced?

ANSWER: FEMA has considered options for identifying resources outside of the Office of Training, but, since resources are appropriated for specific purposes, any transfer of FTE's from elsewhere in FEMA would have a negative impact on that program. Since EMI provides training support to Civil Defense and other FEMA programs (Earthquake, Radiological Emergency Preparedness, Hazardous Materials, Flood, and Disaster Assistance), transfer of resources from EMI would also have a negative impact on those programs. Reduction of the number of FTE's provided for NETC Site Administration from the National Fire Academy budget program would have a negative impact on both EMI and the Academy since these FTE's support a common services activity which is institution neutral.

SENATOR MIKULSKI: We are pleased to note that as of February 28, you were quite close to the Congressionally-mandated Emmitsburg staffing goal of 140, with 137. We also understand that you have vacancies advertised that would put you over the 140 goal. Could you comment generally on the outlook and difficulties in reaching the goal?

ANSWER: The Office of Training and the U.S. Fire Administration are working diligently to bring their staffing levels up to the desired 140. As soon as vacancies occur, documentation is initiated to fill those vacant positions. Unfortunately, employees normally only give two weeks notice when they are leaving while it takes approximately 112 days to fill a vacancy. When vacancies are advertised, the eligible on-board staff who apply must be and are often considered to fill the vacancy. This compounds the time required to realize a net gain. Good fiscal management precludes filling of permanent positions over one's authorized FTE level, hence, it is unlikely that an average of 140 full-time permanent staff can be maintained within available staffing and funding levels.

SENATOR MIKULSKI: Is it true that many buildings at Emmitsburg do not meet the applicable fire codes? Has anything been done to correct this?

ANSWER: Yes, it is correct that most of the buildings at the Emmitsburg campus do not meet Maryland fire code requirements. An initial inspection of the campus was conducted in March 1987 with a follow-up inspection in April 1989. The follow-up inspection found that most of the minor deficiencies of the 1987 inspection had been corrected. Corrective action has not been initiated or completed in those areas requiring major renovation due to the non-availability of funds. It should be pointed out that $300,000 was made available in 1990 from other FEMA programs to initiate corrective action on the campus fire alarm system. It will take a minimum of $4,600,000 in additional funds to bring most of the buildings into compliance with the fire codes.

SENATOR MIKULSKI: The administration's budget proposes establishing a weekly "partial" user fee for all EMI and NFA students. Do you view this as something other than a recoupment of the stipend? Does the term "partial" suggest future increases? To what level would they eventually be raised for full cost recovery?

ANSWER: The 1991 budget request includes a provision to establish a registration fee of $25 per week or any part of a week for resident students attending EMI or NFA. This is being proposed to increase the

State and local share of the cost of training provided by the Federal government. While it could be construed as a recoupment of the stipend, the intent is to increase the State and local cost for the training. The term "partial" is not intended to indicate any future increases. It is intended to show that the Federal government is still providing a portion of the training at no cost to State and local governments.

SENATOR MIKULSKI: We were told in your appearance before this subcommittee that applications for NFA courses far exceed the vacancies. Recognizing that increased funding is difficult, does this suggest a need to shift additional resources from EMI or elsewhere into NFA? What other options might exist? Would the benefits from using the "user fee" for expanding NFA activities offset the disadvantages of the user fee?

ANSWER: Funding is requested within the budget for specific purposes. Any shifting of funding from one budget area or organization for the benefit of another would have negative and adverse programmatic impact. In order to address this matter, the funds have been adjusted by Academy management within the three program elements to meet educational program objectives. Although the legal authority to retain the revenue collected from the user fee would assist the Academy in achieving it's programmatic objectives (provided it did not adversely impact on the appropriated funding), the Administration's government-wide policy is that user fees should be directly deposited to the general receipts of the Treasury. This assures that the full cost of programs continues to receive the scrutiny of both the Administration and the Congress. In addition, it enables Treasury to manage the cash requirements of the government more efficiently. Current reaction from students is that they have little problem with the registration fee, provided it can be used to enhance the Academy's ability to achieve its legislative mandate. The fees, while not going directly to the NFA, do, indirectly, contribute to the ability of the Federal Government to maintain current levels of programs at the Academy. Classroom and dormitory space available at the facility would, however, continue to limit the number of students in the Academy.

INSURANCE ACTIVITIES

SENATOR MIKULSKI: Although we understand Hurricane Hugo had much more wind than water damage compared to most hurricanes, there have been several other disasters during the past year. Has your claim activity increased?

ANSWER: Although the National Flood Insurance Program's (NFIP) claim activity has not increased during the past year as a result of other disasters, damage from Hurricane Hugo resulted in an estimated 16,883 claims totalling an $350 million dollars for FY 1989. Total losses for the year were above the historic average.

SENATOR MIKULSKI: Have the disasters encouraged homeowners to obtain flood insurance?

ANSWER: Since one of the factors which contributes to the reluctance of property owners to purchase flood insurance is a lack of awareness of the degree of risk to which they are exposed, a flood of disastrous proportions generally serves to heighten this awareness, which results in an increase in the purchase of insurance, especially in areas which have not been flooded in some years. Apart from the mandatory purchase requirements, flood disasters are the primary incentive for the purchase of insurance. The extent to which disasters foster the purchase of insurance is not easy to measure, but certain figures related to some recent flooding events may be illustrative. In 1989, serious flooding occurred in Texas, New Jersey, Minnesota, Louisiana, and, of course, South Carolina. Since those flooding events, the number of flood insurance policies in those states has increased by 10 percent in Minnesota, 17 percent in South Carolina, five percent in Texas, two percent in New Jersey and one percent in Louisiana. Louisiana, for example, is a state where the occurrence of floods are not apt to increase the policy base significantly. As a result of frequent flooding in this area, the residents are already very conscious of the importance of flood insurance.

SENATOR MIKULSKI: Is FEMA finding many properties that are required to have flood insurance but don't?

ANSWER: Recently, FEMA conducted a survey of the Small Business Administration's (SBA) home disaster loan files for six states. These states had experience flooding in 1989 primarily from Hurricanes Allison and Hugo. The survey revealed that only 24 percent of the SBA home disaster loan applicants who were required to purchase flood insurance as a condition of a mortgage, had insurance at the time of the flood. These results were similar to the findings of a study on the level of lender compliance with the mandatory purchase requirement conducted following flooding events in Maine and a study conducted by Electronic Data Systems.

SENATOR MIKULSKI: Are the regulatory agencies adequately pursuing mandatory purchase of insurance? Does FIA see a need for some kind of enforcement authority?

ANSWER: The Federal Insurance Administration (FIA) has neither the authority nor the resources with which to examine the operations of the Federal financial regulatory agencies and is not in a position to judge the adequacy of their activities in connection with pursuing mandatory purchase of flood insurance. However, FIA can affirm that these agencies have been supportive of our efforts to help make lenders aware of the mandatory flood insurance purchase requirements. The agencies reviewed and provided constructive suggestions during our drafting of the recently issued Mandatory Purchase of Flood Insurance Guidelines. The Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision have sent copies to the chief executive officers of all lenders subject to their jurisdictions, as well as to their own regional offices. This has stimulated a large demand for this publication and a greatly heightened awareness on the part of lenders.

The agencies have also begun to avail themselves of the opportunity to have FIA personnel participate in training sessions in the regional offices of the agencies and are requesting the development by FIA of data showing such information as lapsed insurance policies of mortgagees and instances of disaster assistance applicants who are mortgagees. The evidence available to FIA indicates that the agencies take their responsibilities seriously, and to the extent that they have sufficient resources to commit to the task, a matter that FIA is not in a position to judge, their expanded activities should result in higher levels of compliance.

There is clearly a need for enforcement authority, and FIA believes that the Federal financial regulatory agencies have such authority. However, FIA continues to believe that if the Flood Disaster Protection Act of 1973 was amended to provide a private right of action by borrowers who have suffered flood losses under circumstances where the lender failed to give them notice that their improved property is in a special flood hazard area and failed to require flood insurance when it was available, enforcement would be greatly enhanced and that the benefits of the enforcement would be gained by those who have suffered uninsured flood losses. The very knowledge on the part of lender of this potential liability would greatly strengthen compliance in a way that would be far more effective than government monitoring of lender activities.

SENATOR MIKULSKI: You estimate the Insurance Fund to have over $600 million in assets in 1991, but over $300 million in liabilities. What are these liabilities? Does this mean the actual funds available to cover losses is $300 million? What would it take to wipe that out? For example, what if Hurricane Gilbert had hit the Texas coast as anticipated?

ANSWER: OMB Circular A-11 defines liabilities as accounts payable, interest payable, unearned revenue, debt issued under authority to borrow, actuarial liabilities, and other liabilities. Assets are defined as fund balance with Treasury and cash, accounts receivable, advances and prepayments, investments, and other assets. In 1991, the National Flood Insurance Program is estimated to receive $675 million in premium revenue. With underwriting costs estimated to be $215 million and $56 million transferred to pay for the floodplain management program and Federal salaries and expenses, the Program is estimated to have $404 million for loss and loss adjustment costs. In addition, the NFIP has a one billion dollar borrowing authority which is available to pay claims as the need arises. In any given year, there is approximately a ten percent chance that losses will exceed $1.5 billion dollars.

SENATOR MIKULSKI: Do you consider this an adequate balance?

ANSWER: FEMA believes that premium income and the one billion dollar borrowing authority provide adequate resources to cover losses in the historic average loss year. If there are legislative changes which expand policy coverage or if more premium income is diverted for other uses, then these resources will not be adequate to cover losses in the historic average loss year.

SENATOR MIKULSKI: Your budget proposal cites user fees from policy holders to pay the costs of the flood insurance and mitigation program. Is this merely reflective of the present practice of transferring operating costs from the fund, or is this something new? Certainly not all of the activities in those programs seem to be something on which premiums should be based.

ANSWER: The budget proposes to collect the administrative costs of operating the national Flood Insurance Program (NFIP) from policyholders. Unobligated balances would still be transferred to the Salaries and Expenses account for the staff and expenses associated with the NFIP and to the Emergency Management Planning and Assistance account for Flood Plain Management (FPM). As a result of the proposal, the actuarial integrity of the Fund will be preserved. Currently, the Fund is being depleted by transfers to the Salaries and Expenses and Emergency Management Planning and Assistance account that are not included in amounts collected from policyholders.

SENATOR MIKULSKI: Are there any other insurers subject to being inundated with claims to the degree you are? If so, do you know what they would consider adequate reserves?

ANSWER: The major insurers in the property and casualty industry are subject to a greater number of claims than the National Flood Insurance Program (NFIP). These companies estimate that they will have 693,791 claims resulting from wind damage caused by Hurricane Hugo and pay out over four billion dollars for this event. In contrast, the NFIP anticipates 16,883 claims totalling approximately $350 million. FEMA has no information on what these companies consider to be adequate reserves.

SENATOR MIKULSKI: Could you provide for the record, say for the most recent year available, how much of your premium revenue was provided by IFG grants and SBA and FmHA loans?

ANSWER: Neither SBA nor FmHA include, as a part of a disaster loan, the cost of purchasing flood insurance. The premium paid by these loan recipients is impossible to determine. IFG, on the other hand, provides grant recipients with the funds to purchase flood insurance where it is required. Separate records on how much of the grant funds are specifically targeted for the purchase of flood insurance are not maintained. However, FEMA's office of Disaster Assistance Programs has interpolated the possibility that, out of a total of 14,365 IFG grants approved in 1989, about 50 percent were conditioned on the purchase of flood insurance, and with a standard premium amount of $106 given to each such recipient, then about $761,345 in grant dollars can be said to have gone toward flood insurance premiums. It is important to note that these figures do not include grants made in the aftermath of Hurricane Hugo, since most of the grants made were for non-flood damage, where flood insurance is not required to be purchased, and the number of grants made for flood damage cannot be isolated.

SENATOR MIKULSKI: How many of your claims are for properties not in the Special Flood Hazard Area? Does this imply inaccurate mapping?

ANSWER: From 1978 through 1988, about 30 percent of paid losses were in areas outside of the Special Flood Hazard Area (SFHA). This does not reflect an inaccuracy in the mapping technology so much as a limitation in what can be cost effectively included in the flood insurance studies that produce the maps. The areas outside the SFHA include drainage areas that may exhibit SFHA type flood frequencies, but are too small to be mapped without severely driving up the study costs. Yet, because flood insurance purchase is voluntary in these non-SFHAs, there is a certain degree of adverse selection in the purchase of flood policies. FEMA has also found that losses to buildings with basements, which are allowed in these areas, have also contributed to the inordinate level of losses.

Since 1981, FEMA has initiated rating and coverage changes that have reduced this problem and ensured that the premiums paid by these policyholders cover the losses. In the period 1983-1988, losses in the areas outside the SFHA were only about 20 percent of all losses. Additionally, in 1989, a new policy called the Preferred Risk Policy was introduced to attract better risks in these areas by offering a more easily written policy at lower premiums to those applicants who could show that they had a favorable loss history. The FIA believes that these program initiatives are the preferred approach over increasing the scope and detail of the current flood insurance studies and maps. For the future, we are exploring how new technology such as the computerized digitization of maps could make it economically feasible to make map revisions based on loss experience in small geographic areas.

SENATOR MIKULSKI: We understand IFG records are required to be kept by the states only 3 years. Are many properties flooded more than once in a 3 year period? If someone can go 3 years between floods he can safely drop his flood insurance and be eligible for FEMA grant or SBA loan assistance again. Is this a potential problem, and if so, can it be corrected without placing undue record-keeping requirements on some level of government?

ANSWER: The mandatory purchase requirements relating to Federal assistance call for flood insurance purchased as a condition of such assistance to be maintained "for the useful life of the project." The Office of Disaster Assistance Programs (DAP) in FEMA has chosen three years as a reasonable interpretation of "useful life" as it applies to the IFG program, since the average IFG grant has been about $2,200. While they do not have any exact statistics, DAP contends that very few properties in their experience are flooded more than once in a three year period. IFG recipients are either low income individuals or on fixed incomes and represent a group for whom the cost of flood insurance renders it a low priority when compared with other more pressing financial needs. For this reason, it is felt that the enforcement of a maintenance requirement beyond three years, particularly in light of the low grant amount, is futile, and may be unduly harsh.

OFFICE OF INSPECTOR GENERAL

SENATOR MIKULSKI: FEMA cites a need, as a statutory IG, to do such things as review existing and proposed laws and regulations pertaining to FEMA, prepare semiannual reports to the Congress, and develop a training program to comply with GAO standards. It would seem that many of these things would have had to have been done before, in order to function effectively as an audit organization. Does this mean that they have not been done in the past?

ANSWER: Prior to the enactment of the Inspector General Act, there was no requirement for a Semiannual Report. Further, given our lack of staff we could at best, give no more than a cursory review to proposed laws and regulations pertaining to FEMA. The OIG did provide training to its staff as resources permitted and endeavored to comply with GAO training standards. However, now that the OIG has a statutory mandate, we believe every effort should be made to formalize the OIG training program to better ensure compliance with appropriate standards.

SENATOR MIKULSKI: The budget calls for 13 additional staff, but the additional duties cited seem largely administrative. To what extent will this funding increase of 52 percent be used to hire additional auditors or otherwise increase audit coverage?

ANSWER: The 13 additional staff will be allocated as follows:

7	Auditors
2	Investigators
2	Program Analysts
2	Clerical

The only staff involved in administrative duties will be the two clerical personnel. Both audit and investigative coverage will improve with this allocation.

EMERGENCY FOOD AND SHELTER PROGRAM

SENATOR MIKULSKI: One of the few criticisms that this program has received is that the poverty and unemployment data used to allocate the funds are not closely enough related to need, and that the formula resulted in some communities being immediately cut off from all funding. We know you have been studying the issue of fund allocation methods; but it appears no changes have been made? What was considered, rejected, and why?

ANSWER: Few if any communities were immediately cut off from funding. The State Set-Aside (SSA) Boards have been very conscious of which jurisdictions have fallen out of direct funding (we provide a listing) and make an effort to provide an award amount that cushions the change in the level of funding. The Board feels that this formula has served it well. It is important to remember that it uses the most recent unemployment figures and also qualifies counties based on their poverty rate. Additionally, the SSA program has expanded the program into non-metro and rural areas whose needs may not surface in any formula.

The National Board did consider various changes to its formula. Many changes involved statistics that were simply not available on a national basis at the jurisdictional level, such as long-term unemployment, underemployment, immigration resettlement patterns, local counts of individuals with AIDS and local counts of homeless individuals. Other suggested indicators, such as median income levels and cost of living estimates were not considered natural indicators of emergency. Also, the Board did look at figures that were available at the State level. But the Board had two objections to using these figures; one, they were available at best on a quarterly basis and two, switching from a jurisdictional to a State level awards system would change the very nature of the program. Rather than being a responsive, public/private hybrid with a close working relationship with providers, a State level allocation would take the program toward a block grant approach.

The Board did look closely at two promising indicators: plant closings data and final checks issued for unemployment benefits. In each case the Board found that the numbers were not yet available on a national basis. In the case of plant closings, the Bureau of Labor Statistics (BLS) was able to provide us with listings of unemployment insurance claimants residing in metropolitan areas who lost their jobs because of plant closings or mass layoffs. Eleven States were used as a test group to determine if these data affect allocations to areas within the States. However, since this program of reporting mass layoff information is not yet nationwide, the data cannot be used for national allocations. Currently, California is not participating. But participation in the program has been increasing each year. When the California data becomes available, we would be eager to look at this area as an adjunct to our formula.

The unpublished data on final payments (final unemployment insurance checks) are not currently required for BLS program purposes. In order to obtain complete information for all metropolitan areas, the data would have to be made a requirement. However, from the seven States provided as a test group, we could not determine a general pattern that varied greatly from our surmises. For example, the greatest number of final payments were made in Texas which was also the largest recipient of Emergency Food and Shelter funds.

In response to a recent request from Congressman Green, we are currently looking into what information is available on what percentage of a jurisdiction's laborforce is seeking work. This is thought to be a way of measuring the number of discouraged workers in an area.

FEMA and the National Board are not complacent on this issue. We have invested a great deal of staff time in an attempt to have a formula that is more equitable, but retains our current flexibility and responsiveness. We will continue to evaluate the formula and hopefully improve upon it.

NATIONAL EARTHQUAKE PROGRAM AND OTHER HAZARDS

SENATOR MIKULSKI: Although the western United States is generally considered most prone to earthquakes, parts of the east are also highly vulnerable. For the latest available year, could you provide the funding for the National Earthquake Hazards Reduction Program by State?

ANSWER: The table below shows the targeted funding level for the seventeen (17) eligible States under FEMA's Earthquake Program (FEMA is the primary agency under the National Earthquake Hazards Reduction Program responsible for providing assistance to State and local governments to implement comprehensive earthquake hazards reduction programs). The figures provided are for the current fiscal year (FY 1990), and do not include the funds for National Earthquake Hazards Reduction Program provided for in the President's Unanticipated Needs for Natural Disasters Account which has not yet been allocated by State.

STATE	AMOUNT
Alaska	$ 53,000
Arkansas	41,000
California	811,000
Hawaii	49,000
Illinois	42,000
Indiana	38,000
Kentucky	39,000
Massachusetts	53,000
Mississippi	37,000
Missouri	47,000
New York	46,000
Puerto Rico	52,000
South Carolina	38,000
Tennessee	51,000
Utah	51,000
Virgin Islands	37,000
Washington	80,000
TOTAL:	$ 1,565,000

SENATOR MIKULSKI: Relatedly, your budget proposal says there are 28 high risk hurricane areas, for which there are currently hurricane preparedness activities underway in 15. What are the 13 other areas and why are they inactive?

ANSWER: Of the 28 risk areas, 10 hurricane evacuation studies have been already completed. The following table provides a list of completed studies and the completion schedule of the remaining studies, some of which are restudies (R):

Completed Hurricane Evacuation Studies

Brownsville, Texas
Corpus Christi, Texas
Beaumont/Port Arthur, Texas
Tri-State (Alabama, Mississippi, Florida panhandle)
Georgia
South Carolina
North Carolina
Delaware
Honolulu, Hawaii
Virgin Islands

Hurricane Evacuation Studies Presently Underway

	Scheduled Completion
Southern Massachusetts	FY 1992
Rhode Island	FY 1992
Connecticut	FY 1991
Long Island, New York	FY 1992
New Jersey	CY 1990
Maryland	CY 1990
Virginia	FY 1991
Cape Canaveral, Florida	FY 1992
Southeast Florida (R)	FY 1991
Charlotte Harbor (Southwest), Florida (R)	FY 1993
Tampa Bay (R)	FY 1993
Southeast Louisiana	FY 1991
Galveston, Texas (R)	FY 1993
Oahu, Hawaii	FY 1991
Puerto Rico (San Juan)	FY 1990

Hurricane Evacuation Studies Not Yet Initiated

Boston Bay, MA	FY 1996
Matagorda, TX	FY 1996
Guam, Samoa, & Pacific Territories	FY 1997

SENATOR MIKULSKI: The amount of funds put into mitigation and prevention, e.g. Training and Fire, Earthquake Hazards Reduction, etc. are rather small compared to the amount paid out in flood insurance claims and disaster assistance. Do you have any view or data on whether increasing the former might not decrease the latter?

ANSWER: One cannot equate the amount of dollars spent on mitigation with the amount spent on insurance claims payments and disaster assistance. Mitigation is a long-term solution to achieving loss reduction and the dollars spent on mitigation are targeted towards future loss reduction. The tangible benefits to be derived from enactment of building codes and zoning ordinances may not be evident for many years.

Insurance claims payments and disaster assistance are for present losses. These losses are primarily for structures which were built before the hazard was identified and before mitigation measures were implemented.

QUESTIONS SUBMITTED BY SENATOR LEAHY

STUDENT REGISTRATION FEE

SENATOR LEAHY: I am concerned that the proposed FY 1991 budget includes a user fee provision for the National Fire Academy. Firefighters who attend courses at the Academy will be charged $25 dollars each. It is my understanding that revenues from this fee will not be used for fire services training, but will be returned to the Treasury.

This concerns me because the great majority of the firefighters in my home state are volunteers, and citizens of modest means. They already spend their own funds to help equip themselves, and give of their time freely. Why has the Administration gone to this fee system? If the Congress decides to reject it--which I hope will be the case--will the Fire Academy need an additional appropriation to be able to offer courses without a fee?

ANSWER: The 1991 budget request includes a proposal to establish a student registration fee of $25 per week (or any part of a week) per resident student attending the National Fire Academy and the Emergency Management Institute. This fee is intended to have State and local government provide a larger share of the cost of training provided by the Federal government. The funds collected from this fee will be deposited to the general receipts of the U.S. Treasury and have not been included as funds available for Academy and EMI program needs. It is appropriate to point out that individuals attending the EMI and NFA Train-the-Trainer programs and participants in the NFA State Weekend program which most of the volunteers attend, will be exempt from the registration fee.

TRAVEL STIPENDS

SENATOR LEAHY: For the reasons I cited above, I believe that it is a FEMA responsibility to budget for student travel stipends for training and education at the National Fire Academy. Does the Academy's FY 91 budget address this responsibility? If not, what funding level would be required in FY 91 to keep student travel stipends for the Academy at the level of current services?

ANSWER: It is our desire to keep up with the cost of living and to be able to accommodate substantially the same number of students that we have in the past. The 1991 budget includes $1,260,000 for student travel stipends for the Academy. This is the same funding level as in 1990; however, since travel costs are increasing, there is a projected decrease of 12.5% in the number of Academy resident students in 1991. An additional $200,000 would be required to maintain the 1990 services level.

EMERGENCY BROADCAST SYSTEM UNDERGROUND STORAGE TANKS

SENATOR LEAHY: On April 4, 1990, I received a letter from FEMA's Associate Director for State and Local Programs, Grant C. Peterson, in response to my inquiry on the subject of available FEMA funds to correct the problem of leaking underground storage tanks at Emergency Broadcast System radio stations in Vermont. Mr. Peterson's letter indicated that monitoring, repairing and replacing these tanks is a FEMA responsibility; that the depth and extent of the nationwide problem is under analysis; and that it appears that "there are insufficient funds available in the EBS program budget to adequately address the problem."

Mr. Peterson states that the analysis will be completed by June 1990. Will you make every effort to see that this time frame is followed? He also states that after the analysis is completed, FEMA will "develop and implement a national strategy to correct this problem." I commend this effort. Can you give me a projected time frame for completing development of this strategy, and will you see that this is carried forward as quickly as possible?

ANSWER: The underground storage tanks (UST's) located at Emergency Broadcast System (EBS) stations belong to the Federal Government. FEMA, through the Broadcast Station Protection Program (BSPP), provides funding, under the EBS program element of the Civil Defense budget, for the purchase and installation of the tanks. The station owner enters into an "Equipment Loan Agreement" with the Federal Communications Commission which acknowledges that the tank is Federal property on loan to the station to meet Federal EBS requirements. Therefore, the monitoring, repair and replacement of such tanks to meet Federal and State environmental requirements is the responsibility of the Federal Government.

As the changes in Federal and State environmental requirements are fairly recent developments, we have been unable to identify the total requirements to date and therefore, could not incorporate them into our FY 1990 or FY 1991 budget requests. However, we do, as stated in Mr. Peterson's letter, anticipate that the total costs will exceed available current EBS funding levels. For example, we have a single request for $275,000 from an EBS station in New York City to correct a UST problem.

It is FEMA's intent to complete its analysis to define the scope and magnitude of the UST problem by June 30, 1990. Although this may appear to be a very ambitious goal, we are committed to meet the deadline. In addition to headquarters personnel, two field experts from FEMA regional staff are assisting in the project. FEMA's target date for completion of the strategy to address the problem is September 30, 1990. This time is required in order to coordinate with other departments and agencies, such as the Environmental Protection Agency and the Federal Communications Commission. To respond to emergency funding requests in FY 1990 for addressing UST problems, we will have to use funds from the $810,000 FEMA originally set aside under the BSPP for maintenance and service of EBS station equipment. We must carefully manage these funds to ensure the maintenance and service of the EBS stations and the EBS system overall, and that no EBS station loses it emergency operational capability. We must carefully select each EBS candidate project for funding.

SENATOR LEAHY: In the meantime, Mr. Peterson writes that emergency requests for funds to correct problems would be handled on a case-by-case basis. If such a request were to be granted, from where in the FEMA budget would the funds be allocated? In the New England region, approximately how much is available in the FY 1990 budget to address such emergency requests?

ANSWER: FEMA does not allocate the EBS funds to the States or the FEMA regions. Given the finite level of funds available, they are distributed on a project by project basis with first priority given to projects required to maintain the integrity of the stations' emergency operational capabilities. Among stations, priorities are assigned based upon the criticality of the role the stations play in the system. First priority is assigned to the Primary Entry Point stations, second priority to the Original Primary Relay Stations, followed by State Relay Network Stations and Common Program Control Stations, Level 1. Therefore, I cannot give you a definitive answer concerning the amount of funds available for EBS stations in any one FEMA region.

Until proper funding is available based on our analysis of the magnitude of the UST problem, FEMA can only attempt to cope with UST problems requiring immediate or emergency action.

SENATOR LEAHY: Finally, I want to commend you and the agency for timely action in responding to report language in this subcommittee's FY 90 appropriations law, which directs FEMA to fund a $200,000 regional emergency dispatch system for fire and rescue services in 41 Vermont towns, under the aegis of the State of Vermont and the Capital Fire Mutual Aid system. FEMA has been most cooperative and forthcoming in this matter, and I want to express my appreciation.

I also want you to be aware of the excellent work, on the above matter and many others, of FEMA Congressional Relations staffer Kevin Clark. Mr. Clark stands out among his peers, government-wide, for his thorough and timely attention to details and cooperative work style. My staff and I look forward to continuing to work with him on many issues of interest to Vermont and the nation.

ANSWER: Thank you, Senator Leahy.

QUESTIONS SUBMITTED BY SENATOR KERREY

TORNADO DAMAGE

SENATOR KERREY: FEMA has no director; the acting director is ill. Who made the decision on what to recommend to the White House regarding the request for a Presidential disaster declaration for tornado damage in Nebraska.

ANSWER: Robert H. Morris, Acting Director, made the decision.

SENATOR KERREY: On March 13 twelve and possibly more tornadoes plowed through Nebraska, causing damage over a 21-county area. On March 26, Governor Orr requested, through the FEMA Kansas City office, a major disaster declaration. When did FEMA/Washington receive information from Kansas City?

ANSWER: FEMA's Kansas City Regional Office made their initial report to the National Office on March 14, 1990.

SENATOR KERREY: Did that include a recommendation? If so, what was the recommendation?

ANSWER: This Initial Disaster Situation Report did not contain a recommendation.

SENATOR KERREY: When did FEMA send a recommendation to the White House?

ANSWER: The State, as indicated in the report, had requested that FEMA not proceed with a Preliminary Damage Assessment (PDA) until they (State officials) identified areas where they wanted the PDA team to focus. Governor Orr requested a major disaster declaration on March 26, and FEMA's National Office received a package from its Kansas City Regional Office on March 26 which contained a recommendation. The regional package was analyzed and processed in Washington, and a recommendation package was sent to the White House on March 30.

SENATOR KERREY: What was the recommendation?
ANSWER: FEMA does not discuss or disclose recommendations relating to major disaster requests in order to maintain the integrity of the decision making process.

SENATOR KERREY: You decided that the response and recovery effort was not beyond the capability of the State and local government. Specifically, how did you calculate this. How much and for what do you expect the State and each locality to contribute?

ANSWER: The determination was based on the type and amount of damage, the concentration of damage, the number of individuals and public entities affected, the available resources of the State and its affected political subdivisions, insurance in effect to cover losses, and assistance available from other sources without a Presidential disaster declaration, such as the American Red Cross, the Small Business Administration, and the Farmers Home Administration.

FEMA does not dictate the amount to be provided by either the State or local governments in answer to a disaster response, only that the severity and magnitude of damage must be beyond the response capabilities of the State and its affected local governments to respond, as required by law.

SENATOR KERREY: You questioned the State's estimate of losses at $39 million -- or at least the amount of the loss which might be relevant for a disaster declaration purpose. Would you explain in some detail your estimates?

ANSWER: The State's $39 million estimate reflects the dollar value of individual, farm, and business property damage, including insured loss. FEMA's estimates are based on assistance which could be provided only with a Presidential disaster declaration. Loans for disaster losses may be provided without a Presidential disaster declaration under programs administered by the Small Business Administration or the Farmers Home Administration.

FEMA primarily considers the need for assistance under the Stafford Act, such as the necessity for temporary housing, Individual and Family Grants for serious needs and necessary expenses, and grants to repair damaged publicly owned facilities.

In the 17-county area surveyed, a total of 190 residential units were identified with some tornado damage. Of these, 77 homes were uninhabitable. The remaining 113 had minimal damage which did not require the homeowner to vacate the property. Ninety (90) percent of the uninhabitable residential units and related personal property losses were adequately covered by insurance, including additional living expenses for temporary housing. The American Red Cross has programs which cover uninsured losses of this nature for which no other assistance is available.

Potentially eligible costs to repair damaged public facilities were estimated to be $2,028,400; of which 96% was for transmission and distribution lines of 11 Public Power Districts spread over a 16 county area. The losses sustained by 5 of the 11 were minimal, ranging from $2,000 to $8,000. The available information indicated that the remaining districts either had cash reserves to cover the damage without adversely impacting their operation or the repair costs could be passed on to their customers without significantly increasing rates.

SENATOR KERREY: FEMA employees from the Kansas Regional Office helped with the damage assessment. In view of this, how do you explain the differences between the State's figures and those with which you are working?

ANSWER: As explained above, there is no discrepancy between FEMA and State estimates. FEMA and State estimates for Public Assistance are the same. For Individual Assistance programs, FEMA estimated the number of families which might need temporary housing and grants, not the dollar value of the real and personal property losses.

SENATOR KERREY: Some people in the area who might otherwise be able to help themselves will not be able to because they are already heavily mortgaged as a result of continuing drought conditions in the area. Eighteen of the 21 counties are already eligible for low-interest Farmer's Home Loans because of drought conditions. Was this taken into account?

ANSWER: The Federal Government's damage assessment in Nebraska showed scattered damage in the 21-county area, with 23 homes destroyed and 27 with major damage in the area. Ninety percent of the homes were insured and could be expected to receive benefits through that source. Since the Federal Government's programs provide for assistance for uninsured losses, and in view of the fact that the American Red Cross provided its emergency programs, major disaster assistance was unnecessary.

The Small Business Administration's criteria for disaster declarations was not met, and SBA provided no loan assistance. However, the Farmer's Home Administration (FmHA) designated 16 counties requested by the Governor, along with 28 counties which are contiguous for physical losses. (Production was unaffected by the tornado.) The FmHA reports that as of April 17, only 3 farmers applied for the physical loan. Although it is very early in the 9-month application period, preliminary contacts between FmHA and its existing borrowers in the area indicates that the farmers are having good luck in settling with their insurance companies, which may explain the low application rate to date.

SENATOR KERREY: I understand that Iowa received assistance for tornado damage in the last year or so. I also note from a list you provided me last year, that several other states received declarations based on tornado damage. How did these situations, especially the Iowa one, differ from Nebraska?

ANSWER: On July 28, 1988, Iowa received a Presidential declaration of a major disaster in Pottawattamie County due to tornadoes, rains, and accompanying high winds that occurred on July 15-16, 1988. The declaration was for Public Assistance (PA) only; Individual Assistance (IA) was not warranted. The Preliminary Damage Assessment (PDA) for Iowa provided a PA estimate of $1,042,150. Eighty percent of the cost was for debris removal. At the time of this disaster Iowa was suffering from a serious drought. The costs of the debris removal, when added to the impact of the ongoing drought rendered effective response beyond the capabilities of the State and its affected local governments.

Since the Iowa Presidential declaration, 11 other tornado disasters have been declared. They are:

State	Date Declared
Arkansas	November 23, 1988
North Carolina	December 2, 1988
Illinois	January 13,1989
North Carolina	May 17, 1989
Texas	May 19, 1989
Louisiana	June 16,1989
Connecticut	July 17, 1989
Alabama	November 17, 1989
Alabama	February 17, 1990
Georgia	February 23, 1990
Mississippi	February 28, 1990

In each instance, the public sector was overwhelmed by a major debris problem, and or, there was a high incidence of uninsured damaged properties, rendering effective response beyond the combined capabilities of the State, local governments, and the private non-profit relief organizations.

On March 13, 1990, a series of tornadoes developed and struck parts of 21 counties in central and east central Nebraska. Governor Kay Orr requested Federal assistance. PDA teams determined that the majority of the housing units affected had adequate insurance coverage. Much of the uninsured damage was to farm machinery, buildings, and equipment. The SBA and the Farmers Home Administration can provide assistance in these areas without a Presidential declaration provided that their services are requested and that certain criteria are met.

Damage to public facilities consisted mainly of damages to the electrical distribution system of 11 Public Power Districts (PPDs) in 16 counties. Most of the districts have sufficient resources to effect the necessary repairs. It was found that the companies affected could respond on their own or with the assistance of State and local governments. Possibly two of the PPDs will need to borrow some of the money to make the repairs; this can be offset by slightly raising rates.

It was determined that a Presidential declaration of a major disaster was not warranted. The State, and local governments with the assistance of insurance companies, the Red Cross, and private businesses should be capable of sufficiently meeting the disaster related needs of the families and public facilities affected.

SENATOR KERREY: Please provide a list of all the requested Presidential disaster declarations which have been turned down since 1988, with the reasons why they were turned down.

ANSWER: From the beginning of 1988 to the present 20 requests have been turned down. They are:

State	Type of Damage	Date
Alabama	tornado	88/01/21
Arkansas	tornado	88/02/23
Kentucky	tornado	88/05/13
Nevada	plant explosion	88/05/09
New Mexico	torrential rains	88/07/20
California	Redondo Beach fire	88/06/17
New Mexico	severe storms and flooding	88/10/05
North Dakota	drought	88/08/11
Minnesota	drought	88/08/26
South Carolina	severe storms and flooding	89/05/09

Mississippi	tornado	89/06/16
Florida	flooding	89/06/30
Alabama	tornadoes and flooding	89/07/06
Arkansas	flooding	89/07/10
Kansas	flooding	89/07/10
Texas	Hurricane Chantal	89/08/16
Arizona	severe storms and flooding	89/08/22
Alaska	heavy rains and flooding	89/09/13
Kansas	ammunition plant explosion	90/01/09
Tennessee	severe storms and flooding	90/02/19

The reason for denial was that in each case the situation was not of such a severity and magnitude that damages were beyond the State and local governments' ability to respond. The State and local governments were either capable of satisfying the demands of the situation or the necessary relief effort was provided by insurance coverage, assistance from private disaster relief organizations, or from some other group(s). The two drought events of North Dakota and Minnesota are the only anomalies and they will be addressed separately.

The two drought emergencies in North Dakota and Minnesota are different from the other events in that many Federal agencies were capable of responding to the needs of the victims. At least 11 other Federal agencies under their own authorities, had the potential of providing the necessary assistance to victims; therefore, FEMA assistance was not necessary.

SENATOR KERREY: Last year, Northwest Nebraska experienced fires in the area near Fort Lincoln. We were able to get some help from the Forest Service but Governor Orr's request for a disaster declaration was turned down. Why?

ANSWER: Section 420 of the Stafford Act, PL 93-288, as amended, authorizes FEMA to provide fire suppression assistance to any State for the suppression of a forest or grassland fire which threatens such destruction as to constitute a major disaster. The intent of the legislation, first enacted in 1969, is to provide assistance to States so that major disasters can be prevented or minimized. FEMA, and predecessor agencies, have based their determination to authorize or deny assistance on the situation existing at the time the State requests assistance and the recommendation of the Forest Service. This program differs from major disaster requests from States in which the Governor requests assistance and a decision is made after the disaster has occurred. In the case of the Fort Robinson Fire it was determined that a threat of a major disaster did not exist at the time of the request and the request was denied.

SENATOR KERREY: According to information you provided last year, disaster declarations were made for fires which occurred in Alaska and California in 1988. How did these differ from the Nebraska situation.

ANSWER: The President declared major disasters for Alaska on March 11, 1988, and for California on September 29, 1988. The Alaska declaration was for a fire in an elementary school in Point Barrow, and was declared primarily to authorize assistance by the Department of Education. The California declaration was for individual assistance for wildfires in Nevada County and Yuba County, with fires burning concurrently in populated areas of five other counties, and was declared to provide individual assistance for disaster victims and 275 homes and businesses damaged or destroyed by the fires. California's request for public assistance was denied on the basis that FEMA had approved Section 420 assistance for the fires in Nevada County and Yuba County on September 15, 1988, which provided the same assistance as requested under public assistance.

SENATOR KERREY: Nebraska now has a Cooperative Fire Agreement. Will this help in obtaining assistance in the future should there be another bush or wildfire?

ANSWER: A Cooperative Fire Agreement with the Forest Service should provide a basis for Nebraska's requesting Forest Service resources for future brush or wildfires. However, such an arrangement is not requisite to a State requesting or receiving Section 420 assistance from FEMA. FEMA has a Continuing FEMA-State Agreement for Fire Suppression Assistance with Nebraska under which FEMA grant assistance is provided when it is determined that a brush or wildfire threaten such destruction as would constitute a major disaster.

SENATOR KERREY: It has been suggested to me that FEMA regulations are written with East and West coasts in mind, that they are reasonable when applied to areas where there are concentrations of people but that they really don't work well for rural areas. Do you agree with that assessment?

ANSWER: The agency does not agree with this assessment. The Presidentially-declared disasters have been in states and territories all across the nation. The following is a breakdown of the disasters that have been declared since 1988 to the present:

State	FEMA Region	Number
Connecticut	I	1
Maine	I	1
Vermont	I	1
Puerto Rico	II	1
Virgin Islands	II	1
District of Columbia	II	1
Maryland	III	1
Virginia	III	1
Arkansas	IV	1
Alabama	IV	3
Florida	IV	2
Georgia	IV	1
Kentucky	IV	3
Mississippi	IV	1
North Carolina	IV	3
South Carolina	IV	1
Tennessee	IV	1
Illinois	V	2
Minnesota	V	1
Ohio	V	1
Louisiana	VI	4
Texas	VI	5
Iowa	VII	1
North Dakota	VIII	1
Utah	VIII	1
American Samoa	IX	1

California	IX	3
Guam	IX	1
Hawaii	IX	1
Marshall Islands	IX	1
North Marianas	IX	2
Alaska	X	3
Oregon	X	1
Washington	X	2
Totals		55

Thirty-four states or territories have received one or more declaration since the beginning of 1988. The listing suggests that neither a regional nor a population bias exists in the Presidential disaster decision-making process. If a county or a number of small counties suffers a damaging event that surpasses the capability of the State and local governments' ability to respond, a Presidential declaration of a major disaster will be warranted.

SENATOR KERREY: Which disaster declaration in 1988, 1989, and 1990 applied to counties with population centers of 50,000 or less?

ANSWER: Since January 8, 1988 there have been 55 Presidentially-declared major disasters. As a result 700 counties have been declared eligible to receive one or more forms of Federal assistance. Of the 700 counties, 476, or 68 percent, have had populations of 50,000 or less.

SENATOR KERREY: If an individual needs assistance as a result of a disaster, doesn't he need it regardless of where he may be located and regardless of whether or not there are a large number of other similarly situated individuals?

ANSWER: There is no question that a person should receive assistance; the question is what is the appropriate form and source of assistance? For example: one damaged house would appropriately receive assistance from the local government or local relief agencies. However, assisting a great number of damaged houses may be beyond the State and local governments', and private relief organizations' ability to respond. The criterion is whether the situation is beyond the State and local governments, and private relief organizations ability to respond. If this criterion is met Federal assistance is warranted.

EMERGENCY FOOD AND SHELTER

SENATOR KERREY: The request for Emergency Food and Shelter is $124.9 million, a decrease of about $5 million. What is the justification for the decrease?

ANSWER: FEMA requested $134 million (the authorized level) for Fiscal Year 1990. That amount was reduced to $124.9 million during the Appropriations process. That was our working figure at the time the budget was prepared. We adopted that number for our request because we sought to at least maintain current funding levels. Subsequent to that action, we received $5.1 million which had been sequestered. That brought our total to $130 million. Moreover, this funding level is consistent with the Administration's policy of shifting resources into programs that assist the homeless on a more transitional or permanent basis. This request is an integral part of President Bush's pledge to combat homelessness by fully funding the McKinney Act programs. Government-wide, the Administration proposes $812 million for McKinney Act programs, a $152 million increase over the enacted 1990 level. The budget request of $981 million for all homeless assistance programs is 22 percent above the 1990 enacted level. In 1991, FEMA's funds will supplement programs for the needy and homeless at more that 10,000 organizations in 2,300 jurisdictions.

SENATOR KERREY: In 1990 some participants reported receiving less funds than they had in previous years. Was this true for most recipients and, if so, why?

ANSWER: This year 50 States and 6 Territories are receiving funding from the Emergency Food and Shelter Program. From that total of 56 States and Territories, 32 have received increased amounts this year while 24 are receiving less. In many instances the differences from one year to the next are quite small. It is important to remember that the allocation formula, like all actions by the National Board which sets the policies for this program, is predicated on the principle that this is an emergency program. Funding shifts are constant since they reflect economic shifts and displacements. this year for instance, funds were reduced in Pittsburgh while increased in Philadelphia, funds to Texas were reduced for the first time in seven years while funds to New York City were increased for the first time in four years. Due to the caliber of people in the non-profit sector with whom we work, it is likely that their spirit and willingness to help will always exceed the resources we have to distribute.

SENATOR KERREY: Please provide for the record a state-by-state breakdown of the allocation of funds in FY 1989 and FY 1990.

ANSWER: The following listing provides a breakdown of the allocation of funds in FY 1989 and FY 1990.

	FY 1989	FY 1990
Alabama	$2,478,256	$2,924,970
Alaska	409,689	316,597
Arizona	1,864,706	2,198,740
Arkansas	1,393,455	1,596,657
California	14,438,227	15,785,346
Colorado	2,036,437	1,946,569
Connecticut	905,367	1,078,833
Delaware	272,932	260,000
District of Columbia	375,680	390,418
Florida	5,723,930	7,095,921
Georgia	2,740,944	3,139,543
Hawaii	256,454	262,412
Idaho	456,576	376,210
Illinois	7,133,460	7,336,689
Indiana	2,370,024	2,336,730
Iowa	740,924	835,898
Kansas	627,663	785,879
Kentucky	2,243,814	2,130,779
Louisiana	4,136,362	4,199,872
Maine	424,615	408,495
Maryland	1,257,479	1,562,103
Massachusetts	1,639,507	2,303,891
Michigan	6,951,067	6,678,059
Minnesota	1,450,950	1,563,068
Mississippi	1,690,191	1,966,271
Missouri	2,149,870	2,356,123
Montana	347,222	370,738
Nebraska	436,522	388,927
Nevada	512,095	541,949
New Hampshire	250,000	262,890
New Jersey	2,290,337	2,875,753

	FY 1989	FY 1990
New Mexico	1,058,347	988,422
New York	6,967,330	8,745,415
North Carolina	2,206,407	2,197,014
North Dakota	252,994	261,587
Ohio	5,995,305	5,842,157
Oklahoma	1,995,763	1,655,861
Oregon	1,649,721	1,622,798
Pennsylvania	5,098,270	4,895,847
Puerto Rico	1,854,795	1,735,418
Rhode Island	291,758	332,177
South Carolina	1,550,095	1,453,703
South Dakota	253,447	261,165
Tennessee	2,394,726	2,491,991
Texas	13,711,749	11,738,320
Utah	709,147	649,812
Vermont	252,409	260,000
Virginia	1,507,290	1,870,668
Washington	3,025,415	3,004,847
West Virginia	1,345,678	1,238,636
Wisconsin	1,953,776	1,658,174
Wyoming	264,913	261,332
Guam	70,645	71,613
American Samoa	74,395	75,415
Virgin Islands	97,526	98,863
Trust Territories*	No funds	No funds
North Mariana Islands	44,387	44,995
Undistributed	1,367,150	367,470
TOTAL ALLOCATIONS	$126,000,000	$130,100,000

*Trust Territories has returned its allocation to the National Board each year.

1-800 NUMBER

SENATOR KERREY: I understand that FEMA has considered the establishment of a 1-800 number for the use in disasters. Would this be used for informational purposes only or also for accepting claims/applications? What is the status of this proposal?

ANSWER: The Agency has pilot tested a system for taking disaster assistance applications over the telephone. Approximately 50,000 applications have been taken by a teleregistration facility currently located in Denton, Texas, near FEMA's Region VI office. We are sufficiently impressed with the initial results of this approach that we are undertaking a study to determine the most appropriate use of this capability.

SENATOR KERREY: When you have used telephone processing in selected disasters, how have you handled complicated applications or those who seem to need special help?

ANSWER: Since registrars at the teleregistration facility have the opportunity to practice and refine their craft over time--as compared with other Disaster Assistance Employees who are called to the field intermittently, or local hires who may receive a one-time training session--we find them able to recognize complicated situations more readily. To the extent these situations cannot be resolved over the telephone, applicants are referred to the appropriate agencies for further assistance.

SENATOR KERREY: When you use a telephone system, is there also a disaster application center somewhere or is there somewhere a person can go and talk face-to-face with a person?

ANSWER: Registration by telephone is designed to be an alternative to, not a substitute for, Disaster Application Centers (DACs). While the use of teleregistration may reduce the number of DAC's needed, or the length of time they remain open, we recognize the need to provide the opportunity for face-to-face contact to those who prefer not to use the telephone, and we provide that opportunity.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

EMERGENCY MANAGEMENT ASSISTANCE PROGRAM

SENATOR GRASSLEY: Presently 59 counties in the State of Iowa take advantage of the Emergency Management Assistance Program at FEMA. Other counties are actively seeking to take part. My question is...what is the present status of funding for this program and what is your anticipation for future funding for this program, from the Administration's viewpoint.

ANSWER: The 1990 Current Estimate for the Emergency Management Assistance (EMA) program is $60,182,000, an increase of $2,066,000 over the 1989 level.

In 1989, the EMA program funded 1,266 State-level and 5,492 local-level civil defense/emergency management personnel in 2,621 jurisdictions. At the beginning of 1990, there were approximately 135 nonparticipating communities with populations over 50,000 (totaling 13,551,000 people) which needed to be included in order to provide the necessary infrastructure of personnel and plans to prepare for domestic and national security emergencies. Utilizing part of the $2,066,000 increase in 1990, we are in the process of adding an additional six jurisdictions (with a total population of over 3 million), which will leave 129 communities (and coverage for just over 10 million people) to be added. The remaining funds have been used for maintaining current levels of funding for communities already participating in the program.

Our projections for future funding, based on the past rate of increases for the EMA program, indicate that we could maintain current levels of funding for participating communities and add the remaining 129 communities not currently participating by the middle of the decade. The 1,080 non-Emergency Management Assistance county level organizations with populations below 50,000 will have civil defense organizations established only during a surge mandated by Presidential policy as the result of a national security emergency.

WOODBURY COUNTY, IOWA, GRANT APPLICATION

SENATOR GRASSLEY: Currently your agency has a grant application from Woodbury County Disaster and Emergency Services. The grant application concerns county-wide emergency communication and severe weather notification for emergency personnel. This application is especially urgent in that the tornado season is upon us in the State of Iowa. What is the current status of this application?

ANSWER: The total amount of funds available in FY 1990 for State and local assistance in the State and Local Warning and Communications Systems program, under which such a project would be funded, is only $907,500. The communications priorities established for that program in the FY 1990 Civil Defense budget were to focus on assisting States' purchase of Operation SECURE high frequency (HF) radios, and amateur radio equipment for Radio Amateur Civil Emergency Services (RACES) emergency networks. These priorities were established to provide the States, and their localities, with robust and redundant emergency communications. These two main funding priorities, Operation SECURE and RACES, required a major portion of the Fiscal Year (FY) 1990 program funds.

The FY 1990 Woodbury County application was for $325,000 to support the development of a county-wide emergency communications and severe weather notification system. To fund that single application would have taken all of the approximate $320,000 we are allocating to 11 States for their Operation SECURE HF equipment purchases. Although FEMA is sensitive to the tornado hazards faced in Woodbury County, we could not justify such a disproportionate allocation of these critically limited funds. Therefore, we cannot fund the Woodbury project in FY 1990.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This concludes today's hearing. The subcommittee will stand in recess until April 18, 1990, at 10 a.m., when we'll take testimony from the Department of Housing and Urban Development.

Mr. MCNEILL. Thank you, Madam Chair.

[Whereupon, at 3:57 p.m., Thursday, April 5, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MAY 10, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:10 a.m., in room S–126, the Capitol, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Leahy, Garn, D'Amato, Grassley, Gramm, and Hatfield.

DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF EDWARD J. DERWINSKI, SECRETARY

ACCOMPANIED BY:
- ANTHONY J. PRINCIPI, DEPUTY SECRETARY
- ARTHUR J. LEWIS, M.D., ACTING CHIEF MEDICAL DIRECTOR
- D'WAYNE GRAY, CHIEF BENEFITS DIRECTOR
- JO ANN K. WEBB, DIRECTOR, NATIONAL CEMETERY SYSTEM
- RAOUL J. CARROLL, GENERAL COUNSEL
- D. MARK CATLETT, DEPUTY ASSISTANT SECRETARY FOR BUDGET

OPENING REMARKS OF SENATOR MIKULSKI

Senator **MIKULSKI**. The subcommittee will come to order.

Senator Garn, would you like to make your statement? I know you have a meeting.

Senator **GARN**. I have another meeting and——

Senator **MIKULSKI**. I apologize for being late.

Senator **GARN** [continuing]. I hope to be back in about 20 minutes.

Senator **MIKULSKI**. OK.

Good morning, Mr. Secretary. I, first of all, want to welcome you and the members of your team.

I know it has been a year since VA has been a Cabinet-level Department. As champion of our Nation's veterans, you have been successful in securing an increase of $1 billion more in health care. This is the healthiest budget request we have seen from the administration in this area for some time. I want to thank you for the role you played.

I know you have taken the role. Now, you are establishing a Mission Commission, an independent but knowledgeable team, to look at the long-range needs of veterans' health care. I want to commend you on this.

We are going to be taking a look in today's hearing at your overall budget. We will be happy to listen to your priorities.

We know that the health care, the loan guaranty program, and the efficient delivery of benefits are the principal areas.

I am going to ask unanimous consent that my statement go into the record.

[The statement follows:]

STATEMENT OF SENATOR MIKULSKI

The subcommittee will come to order. Today we are pleased to welcome Secretary Ed Derwinski and his team, who are here to present testimony on the Department of Veterans Affairs fiscal year 1991 budget.

Mr. Secretary, VA has been a cabinet level Department for just over one year now. As champion of our Nation's veterans, you have been successful in securing an increase of close to $1 billion in the administration's request for medical care.

This is the healthiest budget request we have seen from the administration in quite some time. I want to thank you for the important role you played in making that happen.

Another very positive step you have recently taken is to form a commission—an independent, but knowledgeable team—to look at the veterans health care system, and how that system will need to adjust to an aging veteran population.

This is the first time in 25 years that VA has taken a good hard look at its own medical system, and I commend you for initiating this effort. We will discuss the commission in depth once we get into questions.

We will also be looking at VA's long term care program, construction, and the loan guaranty program, among other items on today's agenda.

I note that VA's overall request totals $30.5 billion. Mandatory benefit programs would receive $16.3 billion or 53 percent of the total budget. Medical programs would total $12.5 billion; construction programs would amount to $694 million; and $902 million would go to operating expenses for veterans' benefits programs.

Mr. Secretary, as you well know, there are no honorary members among America's veterans. They are the heroes of our time, whether it was in the forests of Europe; the beachheads of the Pacific; the mountains of Korea; the jungles of Vietnam; or the streets of Beirut or Panama City.

It is our responsibility as a democratic society to say thanks to these heroes by providing them with the benefits and care they have earned and have been promised. So we want to look at how VA's 1991 budget will accomplish this goal.

Mr. Secretary, we are delighted to see you today and look forward to working with you and hearing your testimony. After my colleagues have completed any opening remarks they may have, you may proceed and then we will turn to questions.

INTRODUCTION OF ASSOCIATES

Senator **Mikulski**. We maintain a strong commitment to veterans. Our question today is how can we create the most effective and most efficient system.

Why don't you go ahead with your statement in any way that you would like to proceed?

Mr. **Derwinski**. Well, first, may I, for the record, introduce the people with me?

To my right is Raoul Carroll, our General Counsel; Mr. Mark Catlett, our Deputy Assistant Secretary for Finance; Tony Principi, my very distinguished Deputy Secretary; Arthur Lewis, Acting Chief Medical Director; D'Wayne Gray, who was recently confirmed by the Senate as our Chief Benefits Director; and Mrs. Jo Ann Webb, the National Cemetery Director.

STATEMENT SUMMARY

In view of your comments, Madam Chair, I appreciate that you have conflicting commitments in the Senate this morning. I will be extremely brief.

One comment on the budget we are requesting for 1991 is that, sensitive as we are to the overall budget problem in Washington, we are very pleased we have been able to get this up-front figure from the administration to present to you. Our $12.3 billion medical care request will permit us to add an additional 2,300 personnel to our medical care services.

I think that is essential and most helpful to play catchup with some of the past years where we have fallen behind the increase in medical costs.

With these additional resources, among other things, some of the emphasis will be placed on expanding our drug treatment programs and sharing resources with the Department of Defense. Sharing is for us and for them, I think, a necessary matter for attention.

We, I presume, will have the Chief Medical Director who will be emphasizing improved patient environment and quality of care. We also have the responsibility to meet the increased cost and demands of caring for AIDS patients, which we are still doing.

You mentioned our Commission. We will be making those appointments within the next week or so. We hope to have the Commission functioning in June.

From a budgetary standpoint, we think the first impact of their deliberations would be fiscal 1993.

Also, if you would permit me, I would like to make two points very briefly for the record. One of them is to call your attention to the fact that we have a down payment of 4 percent for amounts over $25,000 on VA loans. The point there is not a monetary issue. It's an issue, as we see it, to avoid foreclosure costs and, more specifically, to have the veteran be able to save their investment and their homes at times when real estate prices fluctuate and they might be caught on the short side of a loan versus market value.

We also call to your attention the fact that we have very high foreclosure rates on manufactured homes. Despite our best efforts to avoid those problems, the financial solvency of our Loan Guaranty Program is at stake.

My Deputy, Mr. Principi, has addressed that in great detail and has studied it extensively and is prepared to answer any questions you raise on that subject.

PREPARED STATEMENT

But, may I ask that my complete statement be inserted in the record? We wish to proceed now any way you wish.

[The statement follows:]

STATEMENT OF HON. EDWARD J. DERWINSKI

Madam Chair and Members of the Subcommittee,

I am pleased to appear before you today to discuss the President's 1991 budget proposal for the Department of Veterans Affairs.

Madam Chair I applaud the President's proposal. The VA request of $30.9 billion is not only the largest budget ever proposed for veterans' programs, but it increases the VA medical care budget $1 billion, by more than 8 percent. In today's era of fiscal constraints, that is nothing short of remarkable.

The 1991 request reflects the President's vision and his recognition of the debt we owe our Nation's veterans and their families. It is a tribute to veterans in this country and the organizations which represent them here in Washington. And it shows the true meaning of Cabinet status and direct access to the President.

Madam Chair, this is a new decade and it is a new era in veterans' affairs. There are changes all around us at home and abroad. It is time for the VA to change too. We cannot stagnate. We must move forward.

First, we will be more responsive to the needs of our clients. We are a service delivery organization. We exist for the sole purpose of serving our clients. We will improve the quality of our services and the management of our programs. Without good management, we cannot provide good service.

In health care, the task before us is clear. Medicine has changed, technology has changed and our veterans have changed. Our veterans are older and that means they have more illnesses requiring inpatient hospital care That also means they have more chronic illnesses and need to be cared for in outpatient clinics or the community. Madam Chair, we will maintain a strong acute care system, but we will also put more emphasis where it is needed in extended care, in outpatient clinics and long-term care facilities.

This is why our realignment commission is so important. Our health care system has not been reviewed as a whole in twenty-five years. It is our responsibility to gear our system to the needs of the people we serve and provide state-of-the-art care in the most humane way possible. That means offering a complete set of services from preventive health care to hospice care. We will care for veterans who are ill, and also do our part to keep veterans well and out of the hospital. To those who are terminally ill, we will provide the most compassionate assistance available today.

Madam Chair, in the veterans' benefits arena some changes are in order as well. Most particularly, the current statutory policies governing our loan guaranty program are of great concern to me. For fiscal years 1989, 1990, and 1991 the Loan Guaranty Revolving Fund will require over $1.5 billion in appropriations to offset losses due to foreclosures, despite our efforts to limit them. Therefore, it is appropriate to review all the policies of our loan guaranty program to preserve its integrity and solvency, so this benefit will continue to be available to veterans in years to come.

We have proposed that veterans make a four percent downpayment on GI home loans over $25,000, with the first $25,000 being exempt. I believe this proposal is a responsible one. It is standard practice to require downpayments of up to 20 percent on conventional loans, and it is well known that foreclosure is less likely when borrowers make a downpayment. When homeowners are having financial difficulty, the equity provides an extra incentive to make every effort to keep the home.

For VA's average loan of $80,000, the proposal would require a downpayment of $2200, a very modest requirement if it helps even a few veterans avoid the loss of both their loan benefit and their home through foreclosure. Additionally, the burden of saving the downpayment will be reduced by other Administration proposals designed to promote private savings. Thus I believe the proposal for a modest downpayment will not impose a great hardship, and will better protect veterans' interests and those of the Government and its taxpayers.

We have also proposed to eliminate the VA manufactured home loan program, primarily because of its extremely high foreclosure rates. This situation has adversely affected the financial solvency of the loan guaranty program and resulted in substantial debts for veterans whose loans were liquidated and homes repossessed. On balance, the manufactured home loan program is not providing a viable benefit to veterans, despite our efforts over the years to improve the program. Its continuation is no longer justified.

Madam Chair, along with our proposed programmatic and legislative changes, we will continue to manage our resources more efficiently. We believe strongly in implementing management reforms where necessary.

Our first major management initiative was to reorganize the field structure of the Veterans Health Services and Research Administration (VHS&RA). This effort phases out 27 medical districts and reduces seven medical regions to four. This will achieve more uniform management practices throughout the system, improved communication between VA headquarters and individual facilities, and the elimination of the duplication of activities by medical district and regional offices. We believe this new structure will promote a more efficient and more accountable organizational structure for our health care system.

Secondly, over the last several years, loan guaranty workloads in New England have declined to the point that having a fully staffed Loan Guaranty Division at four regional offices is uneconomical. An extensive study to determine how to provide the best service to New England veterans concluded that loan guaranty operations at the Boston, Hartford, Togus, and Manchester VA offices should be consolidated into one division, to be located at Manchester, New Hampshire.

Provision of good, timely service was a primary consideration in this decision. Madam Chair, I am convinced that a properly staffed consolidated office will process the workload more efficiently than the current arrangement, without any reduction in service to veterans homebuyers.

Finally, we intend to pursue additional management reforms in all our organizations in the coming months. This year, we will take steps to improve the structure within our central headquarters here in Washington. Our goal is to improve the efficiency of our line and staff elements, and, thereby, improve our ability to provide quality and timely services to our clients.

I will now summarize the 1991 budget request for the VA, highlighting the budget issues for each of our major programs.

BENEFIT PROGRAMS

Compensation

The 1991 budget requests $11.3 billion, under existing law, to provide compensation payments to nearly 2.2 million veterans and 323.7 thousand survivors. The 1991 funding request reflects the full year impact of the 4.7 percent compensation rate increase provided to all recipients effective December 1, 1989.

Again proposed is legislation to index compensation benefits to the annual change in the Consumer Price Index. Enactment of this proposal would guarantee that all compensation recipients are provided a full and timely cost-of-living adjustment. It is currently estimated that the first such "automatic" cost-of-living adjustment, effective December 1, 1990, will be 3.9 percent and cost approximately $347.3 million.

In addition, legislation will be proposed to place a limitation on the estates of incompetent veterans with no dependents. Under this proposal, benefit payments would be discontinued when the assets of a veteran reach $25,000, resuming when assets are reduced to $10,000 until the $25,000 limit is again reached. This will ensure that remote heirs of incompetent veterans do not inherit large sums of veterans benefits. This proposal is expected to save $170.7 million in FY 1991.

Pensions

The 1991 budget submission includes an appropriation request of $3.8 billion for the pensions account. This amount will provide payments to approximately 1.1 million eligible recipients. The 1991 caseload estimate is 46 thousand below the 1990 estimate. The caseload reduction reflects a declining trend in this program, in part due to increased mortality among eligible recipients that exceeds new accessions to the rolls. Although it is anticipated that the number of veterans age 65 and older will increase during this decade, improvements in retirement benefits as well as other income sources will also contribute to the continued decline in pension caseload.

This budget request includes the full year impact of the 4.7 percent cost-of-living increase provided to Improved Law recipients in December 1989, as well as an estimated 3.9 percent cost-of-living adjustment which would be effective in December 1990. The cost-of-living adjustments to eligible pension recipients, by law, are based upon the actual change in the Consumer Price Index.

Legislation will be proposed to revise the criteria for the reduction of pension paid to certain VA-institutionalized veterans. Pension reductions make it difficult for these veterans to meet continuing monthly obligations (such as rent) during institutionalization. This ultimately hampers efforts to place these veterans back into the community. This proposal would increase the period to the completion of 12 months before a pension would be reduced. It would allow up to $10,000 of withholdings to be returned to the veteran upon release from VA care.

Also, legislation will be proposed to allow the VA to have access to Internal Revenue Service information for the purpose of verifying the income of pension beneficiaries. This proposal is expected to save $61 million in FY 1991.

Burial Benefits and Miscellaneous Assistance

For 1991, an appropriation of $155.5 million is requested to support operations in the Burial Benefits and Miscellaneous Assistance appropriation.

This request will provide for an estimated 116,000 burial allowances to reimburse, in part, the burial and funeral expenses of eligible deceased veterans; 347,873 burial plot allowances provided when an eligible veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and 290,000 headstones and markers for the graves of veterans. This request also includes funding for an estimated 390,432 flags and 40,500 graveliners.

Readjustment Benefits

An appropriation of $502.5 million is requested to operate the programs funded by the Readjustment Benefits appropriation. This funding level will provide basic benefits to 124,800 veterans and servicepersons training under the Montgomery G.I. Bill program. The basic benefits for veterans and servicepersons will be enhanced with a $173 million transfer, primarily from the Department of Defense, which will be used to finance benefits to veterans, reservists and servicepersons. Education benefits under the older programs will also be provided to 39,975 dependents and vocational rehabilitation will be provided to 28,500 disabled veterans.

The trainee level under the older programs is estimated to be 106 thousand fewer in 1991 than in 1990 due to the termination of the Vietnam era G.I. Bill in December 1989. The trainee level under the new program is expected to be 48 thousand higher and will continue to increase as more individuals become eligible for benefits.

Guaranty and Indemnity Fund

In December 1989, legislation was enacted which established a new fund to finance the operation of the loan guaranty program for loans made on or after January 1, 1990, except manufactured home loans.

On March 29, 1990, the President forwarded to Congress an amendment to the FY 1991 budget request for this program. This amendment requests appropriation language which would provide for such sums as necessary for the purpose of making a Government contribution to the fund each year as required by law. This amendment became necessary after the Department of the Treasury reached the conclusion that the authorizing legislation did not provide adequate authority for the making of outlays for this purpose.

Although the intent during creation of this fund was to provide a financing mechanism that would ensure the solvency of the veterans' home loan program, current projections indicate that appropriations would be required by 1995 to sustain operations. In light of that recognition, we urge that the new initiatives described below be provided under proposed legislation in this account. Combined, the new initiatives will obviate the need for appropriations well beyond FY 1995.

In order to increase veterans' equity in their properties and reduce the likelihood of default, legislation is being sought to require a small downpayment on GI home loans. Under this proposal, a veteran obtaining a loan would be required to make a downpayment at a rate of four percent on loans over $25,000 with the first $25,000 being exempt. Requiring a down payment is a forward-looking proposal; there is minimal budgetary impact in 1991. However, by 1995, we estimate that the proposal will reduce obligations by $75.4 million.

Also, legislation is requested that would require all veterans receiving VA loans to pay a 1.75 percent fee except for service-connected veterans with a 30 percent or more rating. The fee may be financed. This would increase collections in 1991 by $109.5 million.

And finally, legislation is proposed to allow VA to include the losses that occur on the resale of properties in the net value calculation, when determining whether or not the loan holder can convey the property to the Government. This measure would enable VA to make more accurate determinations of the cost-effectiveness of acquiring foreclosed properties. It would reduce obligations to the fund by an estimated $5.9 million in 1991 and by $187.9 million by 1995.

Loan Guaranty

An appropriation of $512.2 million will be necessary under existing law in 1991 to support operations in the Loan Guaranty Revolving Fund. This request will provide funding for nearly $2.8 billion in obligations estimated for 1991. This fund continues to provide operational support for loans closed prior to January 1, 1990 as well as continuing to provide for guarantees on manufactured home loans.

Legislation is proposed which will allow the net value calculation described above under the new fund to also apply in computations pertinent to this fund. It is estimated that $380.9 million in obligations would be saved under this proposal.

Legislation is also being proposed to eliminate the Manufactured Home Loan program to reduce losses. Due to the high foreclosure rates in this program, the financial solvency of the Loan Guaranty Program has been adversely affected by substantial debts incurred in this program.

Additionally, legislation is being sought which would permit a holder of a manufactured home loan to submit a claim upon receipt of VA's resale price. Any loss on the eventual resale would be absorbed by the holder and any profit would be retained by the holder.

The enactment of all legislative proposals pertaining to this fund would reduce budget authority and obligational requirements by $108.5 million and $383.8 million, respectively, for 1991.

MEDICAL PROGRAMS

Medical Care

The FY 1991 budget request of $12.3 billion for direct medical care is approximately $1.0 billion above the 1990 level. This is the largest dollar increase ever requested by an Administration for the health care of our Nation's veterans. These resources will provide for an average employment of 194,138 or 2,337 FTEE above the 1990 level shown in the President's Budget. Subsequent to the President's Budget submission, the 1990 employment level was revised from 191,801 FTE to 192,500 FTE and the 1990 supplemental pending before Congress would increase the total annual FTE level to 193,301. The FTE level on October 1, 1990 would be 194,138, which reflects a transfer of 500 FTE to the Third Party Recoveries program.

This budget will provide workload increases of 15,700 patients treated and 538,000 outpatient visits for an estimated level of about 1.2 million patients treated and 23.4 million outpatient visits.

This budget provides for the effect of expected inflation, the funding and staffing requirements associated with the opening of new facilities, and increased pay costs including the 1991 pay increase as well as the 1990 increase. It includes $31.4 million in proposed legislation for nurse pay reform and an additional $33.8 million and 798 FTEE under existing legislation for more nurses so that we may evaluating the benefits of eliminating nurse rotation shifts. There is also an increase of $38.6 million in proposed legislation to increase special pay for physicians and dentists. Other initiatives include $8.3 million and 205 FTEE to sustain a viable field-based quality assurance program; $4.3 million and 90 FTEE to continue pharmacy conversion of ward stock to unit dose; and $27.4 million and 428 FTEE for extended care expansion of nursing home and domiciliary care. An additional $79 million will be provided to meet AIDS and drug abuse treatment requirements.

Other significant legislative proposals will provide savings of $142 million that would: (a) expand upon current law by authorizing reimbursement from private health insurers for treating non-service-connected medical conditions of insured service connected veterans yielding $112 million in receipts and (b) require veterans who do not have service-connected disabilities and who are in the middle or higher income categories to make nominal co-payments for outpatients visits ($5-$10), outpatient prescriptions ($3-$5) and a $9 per-diem payment for inpatient treatment generating $30 million in receipts.

Medical and Prosthetic Research

The 1991 budget request for Medical and Prosthetic Research is $198.5 million and 3,976 FTEE, a decrease of $14.1 million and 421 FTEE from 1990. This funding will provide continued support for ongoing programs. In 1990 a plan for a blue ribbon panel will be developed to review the research programs to insure that proposals approved for funding address the needs of veteran patients and include high priority areas such as spinal cord injuries, geriatrics, AIDS, alcoholism, schizophrenia and delayed-stress disorder.

Medical Administration and Miscellaneous Operating Expenses (MAMOE)

The 1991 request for MAMOE is $47.7 million, an increase of $2.3 million over 1990. Staffing will be maintained at the 1990 end of year level of 521 FTEE. Subsequently, the 1990 supplement before Congress will add $1.3 million to eliminate the shortage in the MAMOE account and to establish the Commission on the Future Structure of Veterans Health Care.

Grants for Construction of State Extended Care Facilities

The 1991 budget request of $42 million is an increase of $651 thousand over the 1990 funding level. This funding will continue VA's policy of providing additional VA-sponsored nursing home beds through less costly State and Community programs. These resources will provide 809 additional nursing home beds and 250 domiciliary beds.

Third Party Medical Recoveries

A total of $25 million and 800 FTEE will be provided in a new account to be known as the "Third Party Medical Recoveries," to finance the billing and collection activities of third party medical recoveries. Legislation is being proposed to create this account and 500 FTE will be transferred from the Medical Care account to support this program. Another legislative proposal will allow the VA to retain a portion of collections to cover the direct program costs.

GENERAL OPERATING EXPENSES

A total of $902.5 million is requested for General Operating Expenses in 1991. This funding level, which is $90.9 million or 11.2 percent above the 1990 funding level, will support an average employment of 17,168.

The 1991 budget request for the Veterans Benefits Administration (VBA) is $605.3 million with an average employment level of 12,334 (existing legislation). This resource request is $42.5 million above the 1990 level while the average employment decreases 266. A majority of the employment reduction is attributable to savings generated by implementation of the modernization short-term initiatives.

The 1991 request also includes several initiatives that will provide for the efficient delivery of benefits to our nation's veterans. Among these initiatives is the continuation of VBA's modernization effort. In 1991, $32.3 million is requested to support the Twelve Point Modernization plan.

In addition, VBA will maintain the employment increases provided in the 1990 appropriation bill. The additional personnel will be used to decrease the compensation, pensions and education adjudication backlog. We will continue to concentrate efforts to improve servicing delinquent GI and portfolio loans, as well as monitor major lenders through the Lenders Audit Unit, which is now officially titled the Lender Monitoring Unit.

In 1991, VBA will continue its emphasis on providing higher quality service and improving the timeliness of work. One approach will be to expand its training offerings. Several techniques will be used including courses at the adjudication academy, training seminars, as well as video tapes. These opportunities will be provided to personnel, both in and outside the VA, who are involved in the benefit delivery process.

The 1991 budget includes two other initiatives in VBA that warrant a brief discussion. First, the VA will begin programming for net premium billing for the insurance programs. This program would allow insurance premiums to be deducted from the dividend payments, thereby reducing the transactions between the veteran and the VA. Finally, legislation is proposed to allow VA access to IRS information. This access would allow the VA to obtain accurate income information on pensioners thereby reducing the incidence of overpayments. Resources of 100 FTEE and $3.7 million are included in the FY 1991 budget proposal to support the implementation of this legislative proposal.

The 1991 budget request for the National Cemetery System of $54.8 million and 1,276 FTEE is $6.5 million and 52 FTEE above the 1990 level. The budget request provides resources for the interment of 63,100 veterans and their dependents (a 1,600 increase over 1990); the maintenance of 1.9 million gravesites and nearly 4,700 developed acres. Resources are also requested for the opening of the San Joaquin Valley National Cemetery. This cemetery is scheduled to be operational in 1992. Increased resources are also requested for the maintenance and repair and equipment replacement at our existing cemeteries. Nearly $4 million is also requested for the continuation of the state cemetery grant program in 1991.

The General Administration 1991 request of $242.5 million and 3,558 FTEE is a $41.9 million and 80 FTEE increase over the 1990 level.. Over 40 percent of this dollar increase is required for the renovation of the VA Headquarters building. A total of $16 million will be used for the rental of temporary office space, office relocations, administrative as well as other support activities.

Resources will be used to expand staffing at the Board of Veteran Appeals from 406 FTEE to 422 FTEE. The employment increase, along with other productivity enhancements, will allow the VA to increase the number of appeals decided in 1991 from a 1989 level of 38,673 to 45,150. As a result, it is estimated that the processing will decline from 210 days in 1989 to 175 days in 1991.

An additional 20 FTEE will be provided to the General Counsel in order to support an increased legal workload resulting from Judicial Review. The budget request in the General Administration activity also includes $1.6 million for a Survey of Veterans (SOV IV) in addition to funding additional studies related to the 1990 Census.

Office of Inspector General

The Office of Inspector General requests nearly $27 million and 437 FTEE in 1991. This increase is a $5.1 million (23 percent) and 48 FTEE (12 percent) increase over the 1990 resource levels. The 1991 FTEE level of 437 represents a 20 FTEE increase over the employment level mandated in Public Law 100-527. The additional employment will enhance audit review of: mortgage lenders, quality assurance at the health care facilities, insurance center operations, and procurement fraud.

Construction Programs

The President's 1991 request for the construction appropriations is $694.5 million. Of this amount, $530 million is for major projects at medical centers, regional offices and national cemeteries.

The major construction request includes funding for three replacement and modernization projects at Detroit, MI; Indianapolis, IN (Clinical Improvements and Mental Health Behavioral Science Center); and Martinez, CA (Clinical Improvement and Seismic Corrections project). Also requested are funds for a nursing home care unit at Palm Beach, FL; a structural seismic correction project at Long Beach, CA; and three clinical improvements projects at Durham, NC; Oklahoma City, OK; and Togus, ME. Funding is also included for asbestos and other hazardous waste abatement, as well as for the settlement of contractor claims arising from projects at New Orleans, LA and Pittsburgh, PA. The request will also provide funding for VA to reimburse the Judgment Fund for the payment of claims that have been made under provisions of Title 31 U.S.C.

Funding is also proposed for the development of additional gravesites at Fort Logan National Cemetery, CO; the relocation of the Montgomery, AL regional office to Department owned grounds; and for the renovation of the Department of Veterans Affairs Central Office building.

For minor construction, the President's FY 1991 request is $145.6 million. This is a 56% increase over 1990. With the attention to improving patient environment, this level of funding for this appropriation is considered essential. It is also requested that the ceiling for minor construction projects be increased from $2 to $3 million. Minor construction includes a General Administration limitation of $44.4 million.

The FY 1991 President's budget requests $18.9 million in new budget authority for the Parking Garage Revolving Fund to be used for new parking garages that are planned for construction in connection with projects at Gainesville, FL and Indianapolis, IN.

Closing

Madam Chair, in closing, we are committed to the accomplishment of the VA's mission to provide veterans the care, support and recognition they have earned in service to this Nation. Our budget request reflects this commitment. This concludes my introductory statement.

My staff and I will be pleased to discuss the details of this request and answer your questions and those of the Subcommittee Members.

REMARKS OF SENATOR HATFIELD

Senator **Mikulski**. Thank you, Mr. Secretary. I want to note that the ranking minority of the full committee, Senator Hatfield, is present.

Out of deference to him and his schedule, if he would like to make a statement and also go to questions, we would be happy to proceed in that manner.

Senator **Hatfield**. You are very generous, Madam Chair. I appreciate very much being an ex officio member of all of the subcommittees. I'm not a voting member of this subcommittee, but I am very interested in matters relating to your jurisdiction.

Mr. Secretary, as you know, I have long been involved and concerned with the quality of care that our veterans receive. I am very cognizant of two very outstanding facilities within your area of responsibility in my State—the Portland VA Medical Center and the Roseburg VA Medical Center.

PORTLAND HOSPITAL

Last March, the inspector general made a survey of the Portland Hospital, as you recall, to review and evaluate the quality of patient care and the program as to resource shortfalls and whether or not the full operation could be achieved in that hospital.

Madam Chair, this is one of the newest of the VA hospitals in the country, one of the few that has been replaced. It's a magnificent structure, but unfortunately because of budgetary constraints not all of the wards have been made operational.

Mr. Secretary, I would like to ask you to give me a brief summary of the primary findings of that March inspector general report as it relates to whether or not there is any systemic problems with respect to patient care, what the focus of that report was, what the shortfall of resources are, and how much more would be required to make the hospital fully operational.

Just a brief summary, if you would.

Mr. **Derwinski**. May I point out, Senator, that the shortfall reflected in the problems in managing the system in the last few years weren't unique to Portland. The inspector general report to which you refer was one that we specifically requested in order to address the very special interest that you and others have in the Portland situation.

The inspector general basically said that the Portland Medical Center was very well managed. The quality of medical care being delivered met all VA standards.

In the process, the inspector general spoke to individual veteran leaders and was assured by them that, basically, they felt they were being well served.

I should also add that I think Dr. Lewis, who was there in the last week or two——

Dr. **Lewis**. Two weeks ago; yes, sir.

Mr. **Derwinski**. We followed and monitored that situation closely. For the remainder of fiscal year 1990, if there is any medical center that has especially acute budgetary complications, we try to reallocate funds to them.

I think in the Portland case there was some speculation in the media that lent itself to possible questions. We addressed those directly, which is why we had the inspector general there. We are satisfied that the quality of care in Portland is good for the veterans using that facility.

Senator **Hatfield**. Mr. Secretary, is it not true that the deficiencies found at the hospital by the inspector general related to administrative procedures, not to the quality of patient care?

Mr. **Derwinski**. Yes; frankly there was a breakdown in processing some paperwork and recordkeeping. That also had been a factor in an evaluation by the Joint Commission.

Senator **Hatfield**. If I'm not mistaken, the paperwork was that the records were kept in a different type of forms than that which had been set as a standard. So the transfer of information that was there in a different form was the fundamental core of the deficiency; is that correct?

Mr. **Derwinski**. Yes; I think Dr. Lewis can address that more technically. But, it was not a matter which affected patient care or delivery of quality care.

Dr. **Lewis**. When I first reviewed the recommendations of the Joint Commission, the issue that led up to the inspector general being asked to go out and corroborate that, Senator, I determined, and so stated, that I was not concerned that the quality of care had been compromised.

The documentation issues, which were subsequently addressed by the hospital director were sent to the Joint Commission. We had put together a plan to monitor the areas they had concerns about. That plan had been submitted to the Joint Commission by the director in the Portland Hospital.

I went out, and I'm satisfied that everything submmitted to the Joint Commission is being done and the quality of care is excellent.

Senator **Hatfield**. Thank you, Dr. Lewis.

Madam Chair, there is one last question.

Senator **Mikulski**. Certainly.

COMMUNITY CLINIC—OREGON

Senator **Hatfield**. I have noticed that we are now trying to reach out in Oregon now. We have about 96,000 square miles of our State. Of course, the population is spread throughout a great distance.

But, from the Roseburg VA Hospital, there will be a community-based clinic and a satellite of that hospital established on the southern coast of Oregon.

Mr. Secretary, you can confirm this for me and then indicate the timeframe that you expect this to be operational.

Mr. **Derwinski**. Do we have the timeframe? I don't believe we do.

Senator **Hatfield**. Could you give me that for the record?

Mr. **Derwinski**. Yes, sir.

[The information follows:]

ESTABLISHMENT OF A COMMUNITY CLINIC—SOUTH COAST OF OREGON

Funding has been provided to establish a VA community clinic for the south coast of Oregon. Planning is in process and implementation of the clinic will be accomplished according to the timeframe outlined below.

Leased space—Temporary leased space will be obtained until a more permanent location can be found. The temporary lease is expected to be finalized and approved during the first week of June 1990. A permanent location will be obtained for implementation at the beginning of the fiscal year 1991.

Staffing—The medical center is in the process of recruiting staff and expects to have staff hired and on board within 3 to 4 weeks.

Equipment and supplies—Equipment and supplies are currently being purchased. Purchases will be completed during the next 2 weeks.

The temporary clinic will be activated in July 1990. The estimated timeframe for negotiating a lease for permanent space and activating the clinic is September 1990.

Senator **HATFIELD**. Madam Chair, I want to thank you again for this privilege. I want to invite you to come to see this facility at Portland, because I think it is unique. It's on a hill overlooking the city. It has the best real estate in the whole city of Portland.

The windows look out on Mount Hood, the Columbia River, the Willamette River, Mount St. Helen's, Mount Ranier, Mount Jefferson, Mount Adams. The therapy at that hospital is greatly enhanced by its location.

Senator **MIKULSKI**. Is Mount Hatfield nearby? [Laughter.]

Senator **HATFIELD**. In addition to that, it's built on this hill and there is a great ridge around it and there is a chasm in between. That and the Oregon Health Science University is on the other side. There you have the Graduate School of Medicine, you have the nursing school, you have the dental school. You have all the healing arts.

The doctors at the Veterans Hospital have faculty status. The students at the university have patient training and all of the things that link these two great medical centers. They are both involved in medical research.

Senator **MIKULSKI**. It sounds excellent.

Senator **HATFIELD**. It really is. We have now established an Alzheimer's Center where the Veterans Hospital, the Oregon Science University, and a downtown private hospital that has done a lot of research in neurology, have set up a joint effort to address this point of Alzheimer's, just as one example of the multiplicity of these medical resources.

We are just very proud of the role the veterans have played out there in the State. We are seeking to link even tighter in a very physical way, but we will get into that later.

Senator **MIKULSKI**. Well, Senator Hatfield, that is exactly what we will be talking about is this combination of geriatric care and facilities.

But, I think you have made excellent points for Portland. Have you got any movies you want to show us? [Laughter.]

Senator **HATFIELD**. I will send you some picture postcards.

Senator **MIKULSKI**. All right.

Senator **HATFIELD**. Thank you, Madam Chair.

Dr. **LEWIS**. Senator, if I could comment, if you go out there you had better learn very early that the river that the Senator has referred to is the Willamic and not the Willamette. I made the mistake of going out and calling it Willamette.

Mr. DERWINSKI. Madam Chair, permit me also to identify Ms. Marjorie Quandt, who is going to be the Executive Director of our new Commission in the future.

Senator MIKULSKI. Oh, that's excellent.

Mr. DERWINSKI. If you have any questions on that point, she would be——

LONG-RANGE CONSTRUCTION

Senator MIKULSKI. In fact, that is exactly what we are going to lead off my line of questioning with.

First of all, as you know, I want to congratulate you on establishing the Commission to identify the long-range facility and capital as well as personnel needs for the Veterans Administration.

Our concern is some of the construction decisions we have to make now but it will be at least over the next 2 fiscal years before the Commission report is finished. Specifically, the kinds of questions would be related to the Detroit facility.

We are going to modernize the Detroit facility; there is no doubt about that. It's an excellent flagship facility. But, it's old and it needs to be retooled for its contemporary mission. It no longer serves the recovery battle wounded.

Therefore, my question, sir, is: What would be your recommendations on how we should go forward with capital decisions we need to make now before the Commission's report is due, particularly in some of the big facilities for which we will have to make some decisions?

Mr. DERWINSKI. I believe the Detroit construction project would be a replacement. In that sense, I think that we should move ahead with consultation with you and other relevant committees and continue that program as we have intended for the next 2 years.

The Commission has such a broad responsibility of reporting to us on, of course, mission changes in the Department. But, also their job is to have the VA properly positioned 10, 20, or 30 years from now.

The problem that you mentioned, the geriatric specialties that we will be getting into, is something the Commission will clearly have to address.

But, something like a replacement of Allen Park must go ahead regardless of what the Commission will finally conclude across the board, because that is I believe a 50-year-old facility. The cost of renovating it would far exceed the cost of new construction. For example, it doesn't have air conditioning.

Senator MIKULSKI. I understand that. When is this report going to be done?

Mr. DERWINSKI. I would hope that we would have it ready for you by the fall of 1991.

Senator MIKULSKI. OK. So, the fall of 1991 means that we have this year's fiscal decisions——

Mr. DERWINSKI. Yes.

Senator MIKULSKI [continuing]. To be made. Then we will also have done the fiscal 1992 budget.

It would be helpful to us for fiscal 1991, and in anticipating fiscal year 1992, if we could have a list of the capital projects on which we will need to make decisions and recommendations; and, given demographic trends in the area, what you anticipate for the mission so that we then could be funding based on that.

To simply replace an acute care facility with an exact replica of an acute care facility might not be in the wisest interest of both the veterans in the area and our budget here.

Would you concur with that?

Mr. Derwinski. Yes. Another gentleman I neglected to introduce, Mr. David Lewis, is——

Senator Mikulski. Oh, we have our construction superintendent here.

Mr. Derwinski. Yes; well, he's a little more than a superintendent. He——

Senator Mikulski. I was teasing him.

Mr. Derwinski [continuing]. Is the Assistant Secretary for Acquisition and Facilities. [Laughter.]

Senator Mikulski. Do you have any thoughts that you wanted to add to that line of questioning?

Dr. Lewis. No, Madam Chair; we can outline those projects. There are not a great many which are really large major——

Senator Mikulski. Would you come forward, sir, so that the reporter can hear you?

Dr. Lewis. Yes; the projects over the next fiscal 1991 and 1992 have been, as you know, planned. They are largely supportive, which I believe tells us that we should go forward with them. There are not many, and there are not many major large construction projects ahead of us.

But, to cite a few, we have Dallas and then we have the earthquake-related large projects in Palo Alto, CA, which are very important and I think we agree are needed.

But, we will supply you a list.

[The information follows:]

Planned Construction
Projects - 1992 and 1993

FY 1992

CATEGORY	MEDICAL CENTER	TITLE
CLIN IMPS	Brooklyn, NY	Outpatient Addition
	El Paso, TX	Ambulatory Care Facility
	Hampton, VA	Ambulatory Care Facility
	Marion, IL	Clinical/Outpatient Addn.
	Philadelphia, PA	Clinical Addn. (Phase IV)
ENVIRON	Marion, IN	Geropsychiatric Facility
	Northport, NY	Modernize Psych/OP
	Salem, NY	Renovate B-9,10,11
	Tuscaloosa, AL	Renovate B-38/Construct New Building
General	Knoxville, IA	Laundry Replacement
	West Los Angeles, CA	Laundry Replacement
NHC	Lake City, FL	120 Bed NHC
REPL/MOD	Ann Arbor, MI	Clinical/OP/Renov (D)
	Dallas, TX	Clinical Addn/Renov (C)
	Ft. Howard, MD	Medical Center Modern. (D)
	Gainesville, FL	Psychiatric Facility (C)
	North Chicago, IL	Environmental Improvements (PHII) (C)
	Palo Alto, CA	Clinical/Seismic Corr (C)
	Tampa, FL	Clinical Addn (D)
FY 1993		
CLINICAL IMPS	Augusta, GA	Spinal Cord Injury
	Boston, MA	Outpatient Clinic
	Cleveland, OH	Outpatient Addn/Parking
	Martinez, CA	Clinical/Seismic Imp.
	Salt Lake City, UT	SCI/Canteen
	San Juan, PR	Modernize Medical Ctr.
	West Haven, CT	Clinical Imps.
	Wilmington, DE	Clinical Addn.
DOM	Bonham, TX	Replacement Domiciliary
ENVIRON	Lyons, NJ	Renovate B-55,56,58,8
	Muskogee, OK	Nursing Units Ren.
	Temple, TX	Bed Replacement Building
REPL/MOD	East Central, FL	New Medical Center (D)
	Ft. Howard, MD	Medical Center Modern. (C)
	Hawaii	New Medical Center (D)
	Reno, NV	Clinical/Bed Addn (D)
	Tampa, FL	Clinical Addn (C)
	Tucson, AZ	Modernization/Bed Addn. (D)

AGING VETERAN POPULATION

Senator **Mikulski**. Well, I'm sure that as we go ahead with the Mission Commission we are going to hear some very innovative ideas. I know that you have already come up with some interesting demonstration ideas.

But, I'm sure that even architecturally, to plan for multimission transitional type of health care, we need—that health care is not synonymous with acute medical care.

So, we will look forward to that. We really want to work with you to match resource to need. I understand from your own priorities here that the aging veteran population is of significant and compelling interest. This then takes me to the question on long-term care.

The paralyzed veterans in their estimates to us say that they estimated that there are 33,000 patients in need of nursing home care. Yet, VA's is about 28,000.

My question to you is not whether PVA is right and so on, but what do you estimate to be the need for nursing home care and what is your current bed capacity and then how we can expect to meet that either through facilities, the community-based ones or State-funded ones?

Mr. **Derwinski**. Do you have that?

Dr. **Lewis**. I don't know the precise number of beds. On the other hand, I can tell you that the 1991 budget anticipates significant growth in both the State home and the VA nursing home programs. The increase is about 10 or 11 percent in the State home program and 5 percent in the VA nursing home program.

There isn't any planned increase in community nursing home care at this point because that is a discretionary item and will be a straight line across the board.

Senator **Mikulski**. What does that mean in plain English, Doctor? I can't follow that.

Dr. **Lewis**. Well, it means that we are planning to increase the number of beds in State homes and in VA nursing homes, but the number of patients who will be placed in community nursing homes will remain the same.

Senator **Mikulski**. Mr. Secretary, the committee applauds the fact that you look at a pluralistic way of meeting nursing home bed needs, one of which is in facilities actually owned and operated by veterans, a purchased care arrangement with community-based facilities, particularly in rural areas not near a flagship facility; and, in providing subsidies to State-owned veterans care facilities where essentially there is the sense of comradeship that is so important in veterans health care.

Of those three, what do you anticipate to be the biggest growth? What do you intend to be funding here? Even with that triad approach, is the need still outstripping capacity, both in beds and the ability to fund beds regardless of those bed locations?

Mr. **Derwinski**. In the short run, the need does outstrip the capacity. But, the States are showing very vigorous interest in the State home program. It's partly because it's a bargain for them as well as for us.

In the meantime, I think I would like to highlight one point the doctor made on the question of the discretionary nature. We are serving in our medical centers over 95 percent of our patients that we call category A, which are those mandated by law, and they get the necessary priority that the law mandates.

Now, if we are to look ahead, we obviously have to have the administrative flexibility down the road to give proper priority to the aging patient. This is where we will need support.

I'm sure that is what our Commission will address because, as you know, the startling figure is by the year 2010 almost one-half the veterans in the country will be over 65. We have to have a structure that serves them.

STATE NURSING HOMES

Senator MIKULSKI. What about for this year? How does bed capacity and funding for that match your resource request?

Mr. DERWINSKI. I have a figure here that the State nursing homes in the 1991 budget will increase by 10.5 percent and VA nursing home care will increase by 4.7 percent.

Dr. LEWIS. I might add to that. I think the question has been raised earlier, and that is at the present time there are, for example, 60 State nursing homes in some 37 States.

We have a priority list this year of some 17 unfunded group applications. We were only able to fund five off that list because there was only $41 million in the budget for that State home program. Similarly, there is $42 million in the current budget, which means that——

Senator MIKULSKI. How much would you need in order to do that? I certainly agree that the State nursing home would offer a wonderful partnership between Federal and State government for us.

Dr. LEWIS. The shortfall this year would be $16 or $17 million.

Mr. PRINCIPI. I think that's it.

CONVERSION OF HOSPITAL BEDS

Senator MIKULSKI. Would you say that's it? Also, we understand that in some of the acute care facilities that you are running at bed capacity, not unlike what private sector facilities are running.

Mr. Principi, we have discussed that. Would you consider any bed conversion in acute care facilities, converting the acute care facilities to nursing home beds?

Is that a feasible and desirable approach, since we already have the facility and the building?

Mr. DERWINSKI. Yes; it is. But, there again we have to be very careful to first meet the mandatory patient needs.

That's why I made the point that our long-term health care is discretionary. When we are in a budget crunch, you first have to meet the legal priority.

Senator MIKULSKI. I concur with that. But, I understand in some of your facilities you have a bed vacancy rate as high as 30 percent.

Mr. PRINCIPI. That is correct.

Senator MIKULSKI. Those are not criticisms.

Mr. PRINCIPI. No.

Senator **Mikulski**. It's what also we are seeing in private sectors, a decline in use of acute care, medical advances, outpatient, many of the techniques you are utilizing.

Mr. **Principi**. We have to be much more vigorous and aggressive in conversion of acute care beds to extended care beds. We are a very acute care oriented system. We need to stretch out that continuum of care, from preventive care all the way to hospice care, and start balancing our program.

But, a fundamental problem that we have is that there is an entitlement to inpatient care, as the Secretary just mentioned. There is no entitlement to outpatient care, only under certain circumstances, and the same with extended care.

We need to define the population we are charged to serve. Then I think we need to give our facilities and our administrators the flexibility to provide the most efficient care, whether it be outpatient or hospital-based home care, noninstitutional forms of care, to keep that patient at home all the way to hospice care. That's what we have to do.

Senator **Mikulski**. Well, I will come back to that in my line of questioning. My time has expired.

I would like to now turn to the Senator from Iowa who is one of the more faithful attendees at this subcommittee, I might add.

Senator Grassley.

COMMISSION ON FUTURE VETERANS HEALTH CARE

Senator **Grassley**. Thank you. I appreciate your cooperation in holding these hearings when we can attend in deference to those of us who have conflicts.

Mr. Secretary, thank you for responding to individual requests that we made of you. I consider you a responsive member of the Cabinet, and I appreciate that very much.

Particularly I think you need to be congratulated, because this year compared to last year we aren't hearing from veterans negatively about the budget. We are hearing some, but not like we did a year ago.

I think that is greatly related to around the $1 billion increase is for veterans' medical care. So I appreciate that very much.

I assume, knowing that you are a fiscal conservative, you wouldn't be spending that money if there wasn't a need for it. So, thank you very much.

I understand that you are planning to establish a national Commission to review the alignment of mission structure of veterans health care facilities throughout the country.

First, how will the mission of the Commission be defined? More specifically, will it be defined as improving the VA health care system as contrasted with, for example, downsizing or economizing?

Mr. **Derwinski**. Directed at the future of the VA, we were motivated by the fact that over 25 years has passed since there has been a comprehensive study at the VA. Since then, we have been working on a patchwork sort of basis.

The purpose of the Commission is to tell us where we should be structured—services, facilities, et cetera—in 10, 20, or 30 years from now to meet the changing medical needs of our veterans.

Senator GRASSLEY. No downsizing?

Mr. DERWINSKI. No; in fact, I made the flat commitment that no medical center in our system will be closed. There would be mission changes, refinements, perhaps more concentration of certain specialties, but that is all for the benefit of the veterans. It is a way of better delivering service.

We have no intention of downsizing the VA.

Senator GRASSLEY. Will the advisory committee be organized under the rules applicable to all Federal advisory committees and, thus, open to the public and representative of the population?

Mr. DERWINSKI. Yes.

Senator GRASSLEY. Some Senators have written you—at least I believe they have—asking that the Commission have among its members someone knowledgeable about rural health care. I am not one of those who wrote, but I want to associate myself with their concern.

I think that this is something that we need to be aware of. And, what is your thinking on that point about some sort of reference or representation or interest with respect to rural health care?

Mr. DERWINSKI. We intend that we will have 15 members on the Commission. It is our intention to have at least one member clearly positioned to be an expert for the Commission in rural health care. In fact, that very definitely is a goal.

REACTION TO THE COMMISSION

Senator GRASSLEY. So, then a natural followup question, and that is on the internal VA study group, which is underway and which has generated, as you know, some adverse reactions on the part of some veterans service organizations—and I tell veterans who ask me about this group that whatever the Department study group recommends, it will be the Congress that will have to make any changes in the veterans' benefit programs.

But, nevertheless, many of them seem to believe that the VA is going to lead the charge to cut veterans' benefits.

First, I would like to know whether you can give us any assurances that this study group is not just going to push for benefit cuts? I know that is probably a silly question, because how can you answer it other than "No."

Mr. DERWINSKI. I can give you a flat assurance. The study has been greatly misunderstood and concerns generated in the field we think are uncalled for.

The purpose of the study, which is an ongoing one directed by Mr. Principi, is to take a look at the entire benefits area to see if we could improve and streamline administration and delivery.

Any recommendations that would be made would be prospective. There would be no retroactive cutting or elimination of veterans who are current beneficiaries.

I might add that you are absolutely correct concerning "until we have a program." We don't have it yet. There are no official recommendations yet. It will be at least another month before it reaches me for a decision.

Prior to any decision that I make, we will consult with the major VSO's. Then we will have an additional hurdle, a little entity in town called OMB.

Senator **Grassley**. That's not necessarily good news.

Mr. **Derwinski**. No; that's right, because the OMB obviously will take a hard look at it and they will find that the savings will be considerably down the road. So, we may have an interesting discussion with OMB.

Then we will finally deliver it to you for any legislative changes that might be in order.

Senator **Grassley**. In regard to some of the things that they are studying, could you give me some examples—and they don't have to be in depth—about the sort of inconsistencies and inequities that the work group is discussing?

I believe that those would be words from probably the charter from you to the group.

ENTITLEMENT PROGRAMS

Mr. **Derwinski**. I will yield to Mr. Principi.

Mr. **Principi**. We are looking at the broad range of entitlement programs that have been in statute since 1946. The service-connected disability compensation program is such a program that is temporal in nature, not cause and effect. An individual can receive service-connected disability compensation for something that is totally unrelated to military performance. It may have occurred within 1 year of separation from active duty.

For example, we have 98,763 veterans who are service connected, not all receiving compensation, for hemorrhoids, diabetes, multiple sclerosis.

And, we are just taking a look at that program to see if it meets the needs of veterans. Again, any changes that would be recommended would be prospective in nature.

On the other hand, we have a DIC program that says that a widow and orphan of a young private or corporal receives $550 or thereabouts a month if the serviceman or woman was killed in combat. The surviving widow or orphan of an admiral or a general receives two and one-half times that amount, $1,500 a month.

We are trying to look at a flat rate for everyone at the E-5 or E-6 level. And, we are looking at possibly making that retrospective so that those widows whose husbands have been killed in combat, whether it be Panama or World War II or Korea, would get an increase. But, we would not take anything away from those who would come down.

We are also looking at our health care eligibility to see if there are any prospective savings so that those dollars can be put into our health care system so that we could meet the health care needs of an aging veteran population by creating an entitlement to extended care as well as outpatient care.

So, this is not deficit reduction driven. It is not intended to take any benefits away from those who are currently receiving them.

But, it's to look to the future to see that the dollars that the taxpayers spend are meeting the needs of veterans and they are consistent with the intent of Congress when those benefit programs were put on the books. It's not a clandestine or sinister attempt. It's senior policy officials at the VA sitting down and discussing different options and trying to come to a consensus on what needs to be done. And, that's our responsibility. That's why we are there. That is what we are doing.

Senator **Grassley**. We are still getting complaints—by the way, do you have the clock going?

Senator **Mikulski**. Yes; we do. We are doing all right.

FUNDING VA HEALTH CARE

Senator **Grassley**. OK. I don't want to abuse my time.

We are still getting complaints from veterans to the effect that if they are in stabilized condition they are told to begin seeking health care outside VA.

And, the veterans service organizations are arguing that even in light of the President's request for considerable additional money for next year for veterans medical care, VA funding for health care is well under what is needed to meet the needs.

Are you able to provide us with any systematic information on the numbers and categories of veterans who are not able to get health care services on an inpatient or outpatient basis, including medications, at the VA because of budget constraints?

Mr. **Derwinski**. We are hoping that this figure that we are requesting for 1991, if the committee can see fit to meet that, will go a long way to alleviating any temporary problems that we have encountered.

But, we will give you additional statistics for the record as to patient treatment that we are now providing for inpatient and outpatient.

[The information follows:]

Patients Treated

During fiscal year 1989, medical care provided by the VA included 1,027,581 patients treated in VA hospitals and 21,019,996 staff medical outpatient visits.

Senator **Grassley**. So, are you saying that all of the veterans will be able to be served? Because if you aren't, then I want to ask you about the impact of a supplemental appropriation.

Mr. **Derwinski**. Those veterans we are mandated to serve, will definitely be served. The 1991 budget request is the largest increase in the history of the VA, an 8.4-percent increase. It's the first time in years where the increase in our budget is, we think, exceeding the cost of the increased economic impact of medical care.

What has happened in the past years, Senator, is that there have been steady increases in the VA budget. But, if the VA medical care budget received a 3- or 4-percent increase, then with the cost of salaries, technology, and whatnot rising to 7 percent, we are behind.

At 8.4 percent, we feel for the first time in years that we are ahead of the rising cost of medical care. And that's what we will be investing in the prudent delivery of health care.

Senator **Grassley**. I had questions similar to Senator Mikulski's on the question of State nursing homes. I want to associate myself with her questions.

And, the last question I will submit for an answer in writing. It deals with the posttraumatic stress disorder program. We have a lot of interest in my State on that, particularly from Vietnam veterans.

Mr. **Derwinski**. As you probably know, we met informally with your veterans about a month ago. And, as a result of that and other meetings we've had with members, we are taking a harder look at the delivery, including the point you raised there, the availability in rural areas.

I am very cognizant, by the way, of that challenge we have to provide medical care in rural areas.

Senator **Grassley**. Thank you, Madam Chair.

Senator **Mikulski**. Senator Gramm.

Senator **Gramm**. Well, Ms. Chairman, thank you. Let me say first, Mr. Secretary, that I don't think anybody has ever done a better job in leading the VA than you have.

Now, I guess we have a right to expect better leadership because, one, we have given you a better title; and, two, we are paying you more money than anybody else has ever gotten. [Laughter.]

But, I just want to tell you that I think we are getting our money's worth and I'm proud of what you are doing.

EARNED VERSUS UNEARNED BENEFITS

Let me say that I've always tried to differentiate earned from unearned benefits in my work on the budget. And, I view veterans as having earned benefits.

And, my mama draws a widow's pension and both my brother and I went to school on the GI bill. So, I think I know something about veterans' benefits.

But, I would just like to congratulate you for doing two things that it's easy in your job not to do. One is, to try to look at the long-term picture to see where we are and what we have got to do, because all that does for an administrator is create a lot of problems on the horizon that you have got to fool with, whereas they probably won't hit until you are gone anyway. And, I know there is a great temptation, which has been succumbed to in the past, to do that. And, I'm glad you aren't doing it.

And, second, I want to thank you for being willing to go back and look at our programs. I think there is a very real temptation in a program like the VA to say: If we have ever done it, then that's the right way to do it.

And, I think clearly that's not true. I think there are some potential problems. I think the cut between the service connected and nonservice connected is too sharp a cut.

Some guy that went all over the world, got shot at, was in great danger, and who was fortunate enough not to be hit is called nonservice connected. Another guy fell into a line of volunteers or draftees and a lawnmower comes along and throws a rock in his eye, and he is considered service connected.

And, I think that looking at a program to try to bring some balance and reason to that, while it's going to get you lots of criticism, I think it's the kind of thing we ought to be doing. And, I think also trying to look at what is happening in private medicine and see how we can learn from it or try not to make the same mistakes they are making, I think all that represents the kind of step that we ought to be making.

And, I just want to urge you to continue to do it and just pledge to you my support in going out and getting the facts. Now, what we do with the facts, what we finally decide, I think is obviously something that we are going to have a lot of debate about.

But, I don't buy the idea that we shouldn't go out and try to find the facts because somebody might recommend that we do something that somebody else didn't want to do. That's a sort of a know-nothing attitude that I think given the real demands that are about to be made on the VA with our aging veterans' population that we just can't afford to do.

HOUSTON HOSPITAL

Finally, I wanted to get an update on the hospital we are building in Houston, which is sort of the flagship of our system. The Texas Medical Center is going to let us really get plugged into the Nation's No. 1 medical center as a full partner.

Where are we on that project? And, when can we expect to be through?

Mr. **Derwinski**. Our hope is to actually dedicate that hospital some time this fall.

Senator **Gramm**. Good.

Mr. **Derwinski**. I think it's on schedule.

Dr. **Lewis**. We plan to activate it in October. And, in September we dedicate it.

Senator **Mikulski**. Good timing, right, Senator?

Senator **Gramm**. It's very good timing. [Laughter.]

NURSE RECRUITMENT

I want to ask you another question. My mama is a nurse and she keeps threatening to go back into nursing now that they are making so much money. I tell her that, given she is 80'ish, she ought to tell the Social Security Administration she is thinking of doing it and maybe they will raise her pension to keep her from going back. [Laughter.]

But, what are we doing in the VA to try to deal with the nursing crisis?

Mr. **Derwinski**. We have a package actually for an increase across the board with special emphasis on certain nursing skills. It was acted on favorably by the House Veterans Affairs Committee.

Its impact on our budget is basically calculated in our 1991 budget. We are cautiously optimistic that our efforts which include, by the way, a major advertising campaign to attract health care specialists, especially nurses, will permit us to compete and overcome the certain cases where we face a shortage of nurses.

The shortage of nurses varies a bit depending on the location of the medical center. We think that we have made a steady progress in the scholarship programs and we have very aggressive outreach programs to attract more nurses.

Senator **Gramm**. I know when I visit the big VA medical centers in my major cities that I always hear concerns about ability to attract and retain nurses and the feeling that, in a sense, we bring nurses in and we train them and then they are hired away by the Methodist Hospital or one of the other big medical centers.

And, I guess I'm convinced that that's the problem that we need to deal with.

Mr. **Derwinski**. I guess that will always be the case. There is always that temptation.

But, I think overall we do have a problem in some major metropolitan areas where the nursing shortage is more acute. In some of our somewhat remote medical centers, the situation is more stabilized in terms of the nursing.

So, we are addressing vigorously the pay package which is something that our nurses have received with great spirit. And, I think the attitude of our nursing leadership and the morale of our nurses in the field will be substantially improved and will be very competitive.

May I add this one comment. When Mr. Principi and I came aboard, we decided, among other things, that we had a challenge, because the VA is a great institution. It was also a traditionally—maybe if I can politely call it—sluggish institution.

And, we felt we had a challenge to shape it up in a totally proper sense to provide better service to our veterans. That is what we are about.

And, to do that, we have to ask questions. We have to ask why things are done. And, if we are not satisfied with the answer, we want to direct some changes.

We are trying to stimulate a very wonderful, traditional, well-intended system to function better. We are trying to be innovative. And, we are trying to use the money you have appropriated well. We are trying to meet the needs of a national system, which is why we win so occasionally when there are parochial interests evidenced by your colleagues.

But, we——

Senator **Gramm**. Never by me. I'm glad you—[laughter].

Mr. **Derwinski**. I was very careful when I said that. [Laughter.]

But, we have a national responsibility. We like to think we are making some progress steadily. And, we think we are getting support. The cooperation of our medical officers has been excellent. We work well with our nurses.

We think people in the field know we are here to stay. They don't have to worry about the VA not being here; it is going to be here. We want to make it a better VA.

Senator **Mikulski**. Senator Garn.

Senator **Garn**. Thank you, Madam Chair. When I came back in, I think a great deal of my questions were being answered.

SERVICE- VERSUS NONSERVICE-CONNECTED DISABILITY

But, I want to emphasize how strongly I feel about the problem of the service- versus nonservice-connected disability. I recognize a lot of veterans organizations don't like me very well. I can't do anything about that.

I think you are aware, Mr. Secretary, I spent 24 years in the military service, reserve and active duty. And, so I am a veteran.

But, when I enlisted in the Navy I didn't expect that gave me a lifelong contract for free medical care. And, I think I'm like a lot of veterans: It has now been 30 years and 3 months since I got off active duty. I am 30 pounds lighter and other than my sick hair follicles, I am in better physical shape today than I was at that time.

I don't believe my Government owes me anything for that military service. And, so I'm really concerned about what seems to have become expectations because they served that people are entitled to all of these benefits.

And, we have this enormous hospital system out there that costs an incredible amount of money. And, I do think we are not doing as good a job as we should for some of those who really have severe problems and that were service connected. And, I get those complaints as well.

When we spread the benefits so far and so thin, we lose some of those. And, we are taking care of a lot of people who I just don't think deserve it under any circumstance.

So, I don't have any more questions. I am aware of what you are trying to do.

But, I just want to emphasize how strongly I feel about that. And, I guess the only question I would have, because I've seen so many different estimates, is: What is your estimate of what the service-connected disability is? I've heard 13 percent; I've heard 17 percent and 18 percent and all the rest are nonservice connected.

Do you have any official estimate of what that breakdown is between service connected and nonservice connected?

SERVICE/NONSERVICE-CONNECTED WORKLOAD

Mr. PRINCIPI. In our hospital care system, sir?

Senator GARN. Yes; well, not just in-hospital but the outpatient as well.

Dr. LEWIS. Based on 1989 data, approximately 44 percent of the veterans receiving inpatient hospital and outpatient care are service connected.

Mr. PRINCIPI. However, they are not always in for service-connected disabilities. They may be coming in for a nonservice-connected disability, but they come in because they are service connected.

So, approximately 44 percent of those who use our hospital system are service connected whether they were in for service-connected disabilities or nonservice connected.

Senator GARN. Well, even we assume that they are all in for—make an assumption that they are all in for service-connected disabilities, two-thirds are receiving these benefits whose injury or illness had nothing whatsoever to do with their military service?

Mr. PRINCIPI. That's correct.

Senator GARN. I don't even understand that. I just don't understand that at all other than the politics of it, that some of the veterans' organizations are so powerful that Congress is unwilling to say "No."

That is an enormous amount of money, especially when you go back to the point that some of those in that one-third category, who really do have severe problems and very little means of support, and some of them are homeless, we are not spending enough on.

All I can say is that I encourage you to be bold and to go beyond what you've even said. I realize you are not going to be able to cut anybody off who is already on.

Somehow there has got to be a solution to this problem. With our budget deficit problem, it's an enormous amount of money to spend on people who served voluntarily. Many of them never left the—most of them probably never left the United States. They learned skills; they learned trades. They got a great deal of benefit from the military service.

I certainly view my military service as a benefit to me, more of a benefit to me than I gave back to my country. And, the skills that I learned—the most important and fun thing I have ever done in my life is my 35 years of flying, and my Government spent about $500 million to teach me to be a professional pilot. I don't know what in the hell they owe me or most of the veterans in similar situations that had no problems whatsoever while we were there.

So, I will just emphasize again how strongly I feel, that it makes no sense to me that two-thirds of these veterans are getting health care coverage that has had nothing whatsoever to do with their military service, and at the same time we've got some of those one-third that aren't getting adequate treatment with their economic circumstances.

So, anything I can do to help, I'm available. They already hate me, so they can't dislike me anymore than they already do. At best, I've been called a Judas and so on, because one of them isn't supposed to talk this way.

But, I've also got a responsibility for a lot of money that goes through this committee. And, I will be very blunt about it, there are other jurisdictions within this subcommittee that needs the money and it makes it very difficult when you have that large amount in the pot going to the nonservice-connected disabilities and we don't have enough money for math and science teachers in this country through the National Science Foundation and other areas of this budget that are highly important to everybody in this country.

Thank you, Madam Chair.

Senator **Mikulski**. That's it?

Senator **Garn**. That's it.

Senator **Mikulski**. That's a lot. Do you want to respond to Senator Garn?

Mr. **Derwinski**. Well, I think in the broadest sense I wish to state for the record that Senator Garn is one of the great statesmen of this body. [Laughter.]

We understand the point he is making. And, I assure you that we have taken a little heat for some decisions and undertakings that we have had in the last year and a half.

We have no illusions about winning a consistent popularity contest. But we are here to do the best we can.

And, we appreciate your emphasis on the fact that the veterans most deserving are the ones that we have to serve. So, I think we appreciate and understand the basic points you made.

I would just like to add, to sort of round out the analysis, that many of the veterans we serve who may not be service connected are people on the lowest economic rung. Therefore, if we weren't serving them there would still be a great public responsibility for them. If we can do the job effectively in their capacity as veterans, that actually becomes an overall savings to the Government.

If we didn't serve them, the public health service or county and municipal hospitals would. And, so I think in that sense, there is a social responsibility that we face that we are trying to meet as well.

Senator **Garn**. Mr. Secretary, let me disagree with you on that point. You are right, that there are some of those nonservice-connected disability people who are on very low income who need help.

But, that is no excuse for making the veterans' benefits program a welfare system. It was intended to be for those who served their country, and because of that service had difficulties, and their Government owes them much more than we are giving those of that category.

We ought to face that issue and place them in other programs where they are taken care of. That is not any different—to give you a very simplistic example. When I had a very small insurance business with a total of seven employees, including me, and it was totally a sole proprietorship, I had a roll of stamps in one side of my desk drawer that was business stamps and one side over here were the personal stamps. If I wrote a personal letter, I used—it was all my money either way. That was for personal business and this roll of stamps was for the insurance agency.

And, we should not be requiring the Veterans Administration to come up and fight for that budget in competition with the veterans that you should be serving. That is the Government's responsibility in other areas.

And, I will be perfectly willing to look at that and recognize that, for some of those there is no safety net for them and we have an obligation to them as citizens, not as veterans. I don't think the veterans should have that responsibility, to pick up that social need. It should be confined for what the Veterans Administration was set up to do.

And, it's our responsibility to try and solve that problem, not yours or the Veterans Administration's.

Senator **Mikulski**. Mr. Secretary, I am going to come back to another round of questioning for myself.

But, before I do, I want to note that Senator Lautenberg wanted to be here, but he is chairing a Coast Guard hearing in the Transportation Subcommittee, which is a very significant and extensive hearing. He is going to have questions for the record.

I wanted to bring that to your attention.

Mr. **Derwinski**. Thank you.

CATEGORY B AND C WORKLOAD

Senator **Mikulski**. Also, Senator Leahy is going to try to be here. He, too, has responsibilities. We are all meeting at the same time.

I would like to pick up in a different direction, which is the B and C category of patients.

We continue to hear about the large numbers of category B and C veterans that have been turned away. Last fall when you made the 1991 budget request, you said that we would be providing enough funds for all B's and C's who wanted care to be able to receive care.

Is your 1991 budget going to be able to live up to that commitment?

Mr. **Derwinski**. We think that our 1991 figure will allow us to restore some of the discretionary workload within the B and C categories.

In the first 6 months of fiscal 1989, we treated over 24,000 category B and C patients as inpatients. And we treated approximately 540,000 outpatient visits.

The comparable workload for 1990 actually has declined. But, we hope the overall inpatient/outpatient workload by the end of this fiscal year will be slightly higher. And, the 1991 workload will increase as a result of our budget authority request.

Senator **Mikulski**. Well, what percentage of B's and C's that are eligible are you serving?

Dr. **Lewis**. In 1989, approximately 96 percent were category A, the rest were B's and C's.

Senator **Mikulski**. Of the B's and C's, what percentage of those that are eligible, the B's and C's that are actually eligible for care, are being served?

Dr. **Lewis**. I have to make a distinction here between inpatient B's and C's and outpatient B's and C's. Inpatient workload is approximately 96 percent category A and outpatient workload is approximately 88 percent category A.

The only ones that we are mandated to take care of as outpatients are the category A's.

Mr. **Principi**. We have about 20 million B and C veterans. Only a microcosm of them come to us for care. The vast majority do not, because their incomes are well above $25,000 and they are nonservice connected. So, they don't even come to us, Madam Chair. It's a very, very small percentage.

Dr. **Lewis**. And, if I may, in order to make sure that we are able to take care of all the category A's and to provide as much discretionary care as possible, we have recently put out some $20 million into the field to address areas where the regional directors have indicated that there are problems.

Senator **Mikulski**. I see. Well, it's also something that we continue to hear from the service organizations.

There is the perception that—and I think it comes back to, perhaps, the issue of acute care versus outpatient care, and also acute care versus long-term care.

Would you say that that also is an area——

Mr. **Derwinski**. Yes; but, also we have to keep in mind the practical facts of life. The various service organizations are structured differently and have a different membership need or requirement for their members.

Therefore, their opinion or their position on this particular issue would vary depending on the structure of their membership, the reason for their existence.

LONG-TERM CARE

Senator **Mikulski**. I want to return to the subject of long-term care.

What we find is that, first of all, long-term care should not be a synonym for nursing home care. Within the field of geriatric medicine, what is often talked about is that long-term care is really a continuum of geriatric evaluation, day care, home health care, as well as support services provided by title 3 of the Older Americans Act and title 7 in the meals on wheels component.

I would hope that when we are looking at the aging needs for veterans we are looking at, essentially, the continuum of care, particularly where veterans could move into those programs funded by title 3 and title 7 and so on.

But, my question is: Are you developing a strategic plan for a continuum of long-term care?

I know, Mr. Principi and Mr. Derwinski, you have done a lot of thinking on this.

Mr. **Derwinski**. We also have a very special committee meeting now to direct our research into geriatric medicine.

In addition, I—the question I thought you were coming to when you asked us if we would be expanding our geriatric centers——

Senator **Mikulski**. Oh, I am going to come to that.

Mr. **Derwinski**. Oh, you are. OK.

CONTINUUM OF CARE

Senator **Mikulski**. But, you see, geriatric centers are only part of a continuum that is needed that will require our facilities. It would seem to me that veterans need to be considering nursing home beds, which we discussed, geriatric evaluation facilities, as well as perhaps dependent care facilities. Then also things like meals on wheels would come from title 3 and title 7.

Mr. **Principi**. Yes, Madam Chair; we are doing precisely what you said.

We are in the process of developing a strategic plan to move the VA more into those areas. We feel very strongly that that is where health care is going. It's not just institutional care, as you mentioned. It's really noninstitutional, home-based health care, hospital-based home care, adult day care, hospice care, and respite care.

We can do so much more for veterans much more efficiently in those areas. So, yes, we are working very hard to establish a continuum and move the VA in that direction.

It is my hope that before we leave, every VA medical center will have an HBHC program, will have a hospice care program and will have a preventive health care program. And, if we could accomplish that, I think we've done a great deal.

Senator **Mikulski**. You absolutely will. By the submission of next year's budget, could we have a plan——

Mr. **Principi**. Yes.

Senator **Mikulski** [continuing]. Of where we are heading in this area?

Mr. **Principi**. Yes.

GERIATRIC EVALUATION UNITS

Senator **Mikulski**. Which then takes us to the geriatric evaluation which is so crucial. Right now, you have geriatric evaluation units active in 87 veterans' facilities; there are 85 remaining.

What is your plan? I understand that your original goal was to have geriatric evaluation units in every VAMC by the year 2000. That would break out, with about another 85 to go, to 8 or 9 per year.

How many do you anticipate will be established in 1991 and what are your future plans in this area?

Dr. **Lewis**. Well, if I may address that, because last time we met I indicated to you that I believe that every one of our medical centers should have a geriatric evaluation unit. I think that probably most of our hospitals, if not all of them, have some type of evaluation unit, perhaps not clearly identified but actually functioning as a geriatric evaluation unit.

I would think that what I told you then would still hold, and that is that all of our medical centers should have one certainly by the year 1992 or 1993 if they don't already have one.

I think this again, Madam Chair, is part of the process that Mr. Principi addressed. We are attempting to institutionalize a long-term care plan as part of a continuum of care.

I think that to a considerable extent we already have in place many of the programs that the Deputy Secretary has mentioned including the involvement in the private sector. I think one of the problems we face is that when you try to shift some of these patients off of the VA rolls and into the community there is typically some kind of a negative response from families and also from different service organizations. But that is what we are trying to do.

Senator **Mikulski**. How many will you be trying to do in 1991?

Mr. **Derwinski**. Evaluation units?

Senator **Mikulski**. Yes.

Mr. **Derwinski**. We think in 2 years, we could have one in every medical center if the funding that we anticipate in 1991 and 1992 comes through.

Senator **Mikulski**. Would they meet what we would call the standard accepted criteria in which there would be a medical and neurological and psychosocial diagnosis and then a plan?

Mr. **Principi**. Yes, Madam Chair.

Mr. **Derwinski**. Yes.

Senator **Mikulski**. I will tell you, if we can do that, we will have done more to help meet the long-term needs of not only the veterans' population but of the American population.

Too often, primary care doctors don't often know that. They just think it's old age. Then we don't have the right person in the right facility and the right plan.

That would be phenomenal.

Mr. **Principi**. The resources per hospital are not that great. And, I believe, as the Secretary mentioned, we have looked at it and we can do it well before the year 2000 and, hopefully, within a couple of years and, hopefully, within the resources that you've given us. Maybe $1 million or more will do it. I don't believe that it would cost us much money to do so.

Mr. **Derwinski**. They are inexpensive programs really.

GERIATRIC RESEARCH, EDUCATION, AND CLINICAL CENTERS

Senator **Mikulski**. You also have another area that is more sophisticated which is your geriatric research, education, and clinical centers. And, I know that these have been very special centers of excellence that have provided research and education as well as clinical care, while at the same time providing evaluation services.

Of the 25 that have been authorized, only 12 have been funded. Would you tell us what your plans are in regard to the expansion of this program?

Mr. **Derwinski**. Subject only to the obvious observation of funding availability, it would be our goal to have 7 additional, which would be up to 19 established by fiscal year 1996 and 25 by the year 2000.

Senator **Mikulski**. There has been a report then also on their effectiveness; is that right?

Mr. **Derwinski**. Yes; in fact, we will provide for the record a list of what we think are notable achievements and breakthroughs. Palo Alto has been especially prominent and effective.

Senator **Mikulski**. Very good.

[The information follows:]

GERIATRIC RESEARCH, EDUCATION AND CLINICAL CENTERS (GRECCs) SELECTED ACHIEVEMENTS

GRECC staff have made notable achievements in research, education and development of clinical models for care of the elderly. In the area of research, GRECC staff are recognized nationally and internationally for their achievements through publications in prestigious, peer-reviewed journals, invitations to serve on peer-review panels of the National Institutes of Health, receipt of national research awards, acceptance of papers for presentation at major conventions and election to offices of national aging organizations. The GRECC program has a number of researchers who rank among the top 5 in their speciality area. The following selected examples highlight the scope and range of GRECC research influence on the provision of care to the elderly:

o Dr. Gerald Reaven's (Palo Alto GRECC) research on diabetes and aging has found that glucose intolerance commonly associated with aging does not occur in individuals who remain physically active, thus giving hope that changes in lifestyle by middle-age and elderly individuals may prevent adult-onset diabetes.

o Drs. Larry Thompson and Dolores Gallagher (Palo Alto GRECC) are finding that depressed elderly patients who cannot take antidepressants due to side effects of medication or who choose not to take medication may still experience symptomatic relief through psychotherapy.

o Dr. Daniel Everitt (Boston GRECC) and his colleagues have shown excessive psychoactive drug use in nursing homes. To address this problem, they have designed an educational program and are analyzing data to determine the effectiveness of this intervention.

o Dr. Takashi Makinodan and his colleagues (West Los Angeles GRECC) are investigating ways to rejuvenate the immune responses of the elderly. This research suggests that it may be possible to significantly reduce the acute and chronic catastrophic illnesses facing the elderly through the restoration of their immune functions to those of a younger adult.

o Dr. Thomas Lampe (Seattle GRECC), in collaboration with Dr. Thomas Bird (Seattle VA staff), have published in Science (241:1507-1510, 1988) findings that are important for researchers attempting to identify the gene responsible for Alzheimer's disease. They have discovered that in ten families suffering from familial Alzheimer's disease (the "Volga Germans"), an autosomal dominant gene could be identified but, unlike reports from other families, it did not map to chromosome 21.

o Dr. Laurence Rubenstein (Sepulveda GRECC) conducted a landmark, randomized controlled study, published in the New England Journal of Medicine (311:1644-1670, 1984), which showed that the Geriatric Evaluation Unit developed by the GRECC was highly successful in improving patient care outcomes, including decreased mortality, decreased discharges to nursing homes, lower rehospitalization rates and lower cost of care, over a one year follow-up.

In the area of education, GRECCs disseminate geriatric and gerontological knowledge through continuing education activities and through the provision of training to Geriatric Fellows, residents, nurses and other associated health trainees. The 206 graduates of VA's Geriatric Physician Fellowship Program (approximately 50 percent of whom were trained at GRECC sites) represent the largest single agency contribution to the development of geriatric medicine as a recognized area of special competence in the United States. In addition to fellowship training, the GRECCs provide geriatric training to more than 600 medical, dental and allied health trainees annually. Regarding continuing education, the GRECCs frequently co-sponsor their programs VA Regional Medical Education Centers and with the affiliated university to broaden the target audience and include both VA and community health care providers. In addition to conferences, GRECC staff provide lectures, seminars, case conferences and teaching clinical rounds at their local VA medical center as well as lectures and training at other VA medical centers and the community. On an annual basis, GRECC staff have provided over 5,000 educational activites for practitioners within their local VA medical centers, more than 1,000 lectures at academic and professional meetings and more than 500 training sessions at other VA medical centers and community settings. Examples of educational materials that have been developed by GRECCs and widely disseminated throughout VA include a publication entitle Cancer Pain (Durham GRECC), a series of 21 Dementia Caregiver Education Pamplets (Minneapolis GRECC), 3 videotape programs dealing with management of Alzheimer's disease (Bedford division of the Boston GRECC) and 2 booklets, 80 Do's and 58 Dont's for Your Safety and Fourteen Fountains of Youth, (Sepulveda GRECC) which concentrate on practical tips intended to reduce the need for hospital care by encouraging preventive, self-help measures.

In addition to the Geriatric Evaluation model developed at the Little Rock and Sepulveda GRECCs in the late 1970's and which has been replicated in 87 VA medical centers and in private sector hospitals, GRECCs have developed other demonstration programs such as Alzheimer's Study Units, Academic Nursing Homes, a sheltered workshop for dementia patients, and multiple, specialized outpatient clinics for elderly patients with problems such as cancer, osteoporosis, sleep disorders and falls. These and other clinical demonstration programs developed and tested by GRECCs have positively impacted on the care of elderly veterans since the establishment of the first GRECCs by VA in 1975.

LOAN GUARANTY PROGRAM

Senator **Mikulski**. I would like to now go on to the issue of the Loan Guaranty Program. I know that you are proposing some new ways related to the way you handle veterans housing.

I know that there has been a substantial amount of study. As you know, it has been a cause of great concern to this committee about the default rate. It's a tragedy to both the veteran who loses his or her home as well as to the Federal Treasury.

Could you tell us what your opinions are to improve the Loan Guaranty Program? I know the down payment is one. Could you give us the rationale for that, No. 1? And, then any other plans that you might have?

Mr. Secretary, I know you have thought long and hard about this. So we would like to have for the record the thinking behind this rather strong medicine proposal.

Mr. **Derwinski**. Yes.

Mr. **Principi**. Well, I am pleased to report—and I can defer to D'Wayne Gray on these precise numbers—that the default rate is down from the last fiscal year and the foreclosure rate is down. So, things are looking better with regard to defaults and foreclosures.

However, with $154 billion in outstanding loans out there with a contingent liability of about $61 billion, it's a program that we are watching very carefully. It's not the S&L crisis, but $61 billion in contingent liability is a fair amount of money.

What we are doing is to try to solve some of the problems, both from the loss perspective and to protect our veterans. We have, pursuant to congressional mandate, looked at our credit underwriting standards, looked at our appraisals, and looked at monitoring our lenders. This is a program that really is run by the private sector.

We guaranty the loans, but all the loans are made by mortgage bankers. So, we have established auditing units to go out and ensure that credit underwriting standards are being adhered to.

This is not only to protect us from losses, but it's also to protect veterans, to ensure that they are not obligating themselves to a debt that they really do not have the capability of meeting.

We do not do any service to our veterans if we allow them to buy homes and incur obligations that they can't meet. That is going to result in a foreclosure and the stigma of bad credit on their record.

A good example is that our inspector general is taking a look at a situation out west where a developer sold—I don't recall precisely the figures—but something like 396 condominium units, mostly to enlisted personnel around a military installation. The vast majority, with the exception of very few, of those loans have gone into default. And, every one of those enlisted people will have a foreclosure on their record.

We are trying to stem that kind of abuse. What are we doing? The 4-percent down payment we believe makes good policy sense.

Senator **Mikulski**. It's 4 percent. But, the first $25,000 requires no down payment?

Mr. **Principi**. That's correct; it will be 4 percent above $25,000.

So, on the average priced home, Madam Chair, of about $80,000, it would be a $2,200 down payment. We think that's a very, very small sum for anyone, whether it be military personnel on active duty or a veteran, to apply toward his home. The incentive is in the right direction.

Senator **Mikulski**. The VA is limited to first-time home ownership; is this correct?

Mr. **Principi**. No; it has to be a principal place of residence. But, you could have bought a home, for example, and not used the VA but at some later time you could use your VA home loan. As long as it's not for investment purposes, but it's the principal place of residence.

But, the 4-percent down payment we believe would ensure that veterans were ready for home ownership; that they had some equity in the home. I think there is consensus that with an equity down payment, the likelihood of default is decreased.

We don't believe it's going to solve all of our problems, but we believe it puts the incentive in the right direction. And, it still makes the VA Home Loan Program the best deal in town, because the conventional down payment is 20 percent and FHA is higher as well.

Also, with a slight increase in the loan origination fee to 1¾ percent, it would help to reduce the amount of money we need from the Congress to keep this program afloat.

Within the last 2 to 3 years, we have had to ask the Congress for well over $1 billion just to shore up our losses. In fiscal year 1991, we are going to need an appropriation of over $500 million to keep the program running.

We are receiving a supplemental this year of about $245 million again. That's the rationale, Madam Chair.

We believe it's good policy and it protects veterans.

Senator **Mikulski**. Well, you have obviously put a lot of thought into this. I am going to ask you one other question: Have you also looked at alternatives to foreclosure or early warning systems?

Mr. **Principi**. Yes; we have, Madam Chair. We are looking at deed in lieu of foreclosure, buybacks and other options to foreclosure, because we believe that we can, in most cases, protect the veteran and reduce our losses.

Sometimes, however, those options do not apply. For example, we cannot take back a deed in lieu of foreclosure if the veteran went out and put a second lien on the property.

So, there are some problems with looking at those options. But, we have directions out to all of our regional offices that options to foreclosure will be explored with the veteran whenever possible. We hope to improve in that area.

Senator **Mikulski**. Thank you, Mr. Principi. I just want to say this, Mr. Secretary: Your colleague and also fellow member of this 302(b) subcommittee, Mr. Kemp, has got his hands full with FHA. What is happening in this subcommittee through VA and FHA, we are taking back an awful lot of housing.

His Assistant Secretary, Austin Fitts, in the FHA program told us about 86,000 houses, FHA houses have come back. That's a lot of liability for the Government to be holding and a lot of tragedy out there in the street.

What Kemp did was to have Price-Waterhouse do an actuarial study of the FHA which will be out next week and might offer insights to you. Also, Austin Fitts is working on some ideas on what to do with FHA that might offer some suggestions on what you could be doing.

But, this is a lot. I know OMB, in their conversations with us, have expressed a real concern about the liability that we are being left to hold. It's almost no-fault capitalism for the banks, tragedy for the young guy who just got in over his head.

SERVICE DELIVERY

So, let me ask a question related to service delivery and then turn to the Senator from New York.

We know that you have a new Benefits Director, a general from the Marine Corps with a can-do attitude.

Apparently there is a backlog of over 650,000 claims. Could you tell us, General Gray, have there been any improvements in the service area and what are your plans to reduce the current backlog in compensation and pension claims?

Mr. GRAY. I don't know, Madam Chair, that I've got the precise number today of the backlog, but it is substantial.

Senator MIKULSKI. Would you provide that for the record?

Mr. GRAY. Yes.

[The information follows:]

There were a total of 422,646 claims to be worked nationwide as of April 30, 1990.

Mr. GRAY. The solution, to the extent that there is one solution, will come with the modernization of our ADP program which will allow us to process the information that we need to make decisions more quickly and efficiently. We have a substantial proposal to redo that in the budget that you are considering for 1991.

In addition, we have just had our first class graduate from the Adjudication Training Academy, which is a prototype of training that we hope to do across the board in all our disciplines within benefits delivery to improve both knowledge and, in the cases where it's needed, attitudes toward what we are about.

You were kind enough to call me a can-do person. I am happy to say that I think I find that same attitude in general with the people that I've joined here in the VA.

ADP MODERNIZATION PROGRAM

Our task, the Secretary's task, and mine in helping him, is to get them the tools and staff to do the jobs that they want to do and that you want them to do. The ADP Modernization Program will be a large portion of that.

Senator MIKULSKI. So, there will be new data, new computers and new training?

Mr. GRAY. Yes, Madam Chair; and new procedures, because the technology will allow us to streamline procedures. We don't want to only do what we now do faster. We want to find ways of eliminating steps, of using expert systems and so on to make work smarter and more efficiently.

Senator MIKULSKI. What is the average amount of time to process a claim, and does that compare to 1980?

Mr. **Gray**. Madam Chair, instead of searching through this, may I provide that for the record?

Senator **Mikulski**. Yes.

[The information follows:]

AVERAGE TIME TO COMPLETE CLAIMS

[In days]

	1990	1980
Compensation	147.8	(1)
Live pension	93.2	(1)
Death pension	64.0	(1)
DIC	95.4	(1)
Nonoriginals	94.0	(1)

[1] Timeliness data was not maintained in days in 1980.

PERCENT COMPLETED LESS THAN 90 DAYS

	1990	1980
Compensation	27.7	37.7
Live pension	55.8	58.0
Death pension	74.7	82.0
DIC	59.9	68.0
Nonoriginals	56.4	62.0

PERCENT COMPLETED LESS THAN 180 DAYS

	1990	1980
Compensation	69.6	80.0
Live pension	88.5	90.0
Death pension	95.7	96.0
DIC	88.2	92.0
Nonoriginals	86.3	91.0

The timeliness figures show that it now takes longer to work cases than in 1980. One of the reasons is that we have incorporated more due process procedures within our claims processing in order to comply with constitutional and legal requirements. In addition, FTE reductions have exceeded the capacity of modernization to compensate for these reductions when coupled with increased complexity of the claims processing procedures. We have also experienced increased delay times in obtaining service medical records, a major factor in timeliness of original compensation and DIC claims.

Senator **Mikulski**. We have now been joined by two colleagues. I would like to have Senator D'Amato ask his line of questions.

Senator **D'Amato**. Thank you, Madam Chair. I would ask that my statement be submitted for the record as if read in its entirety.

Senator **Mikulski**. Without objection.

[The statement follows:]

Statement of Senator D'Amato

Madam Chair, I commend you for convening this hearing on the administration's fiscal year 1991 budget request for the Department of Veterans Affairs, and I welcome VA Secretary Edward Derwinski. I share the Secretary's strong support for our Nation's veterans and I remain committed to ensuring that they receive the benefits they have earned in service to our country.

I applaud the President for requesting a significant increase in veterans' spending in 1991. The VA request of $30.9 billion is the largest budget ever proposed for veterans' programs—representing an increase of $1.275 billion over 1990 spending.

I am pleased that a large share of this increase—more than $900 million—is targeted at veterans' health care, contributing to a total medical care request of $12.3 billion.

At the same time, however, I am concerned by a proposed reduction of 7 percent, or $14.1 million, in the "Medical and prosthetic research" account. VA research, in addition to helping combat disease, plays a vital role in recruiting and retaining talented physicians. At a time when the VA faces a shortage of qualified medical personnel, we should at least maintain the research account at its current level.

These concerns notwithstanding, I think the President's request for the Department of Veterans Affairs is to be commended for the commitment it reflects to serving our Nation's veterans.

I look forward to working with my colleagues on this subcommittee, and with the administration, to ensure that our veterans continue to receive the top priority they deserve.

Thank you, Madam Chair.

REPLACEMENT EQUIPMENT

Senator D'Amato. It's a pleasure to welcome Secretary Derwinski here. And, I want to commend the Secretary for his strong advocacy on behalf of the Veterans Administration in light of the fiscal restraints that we obviously face.

Mr. Secretary, I am just going to raise really one question. I am concerned about the reports—and I've heard it firsthand from veterans back home in Northport and from other installations nationwide—that we have an aging medical equipment situation and that the replacement for this equipment is backlogged by over $500 million and that this backlog is expected to reach nearly $800 million by 1991.

Now, I would first like to ask if this is true? Second, if it's true, then it would appear that our request for moneys in this area certainly fails to reflect the problem and the dilemma.

We've got to do something or otherwise that problem is going to get worse. And in this fiscal year 1991, I understand we asked for $5 million less for replacement than we did last year.

So, that's the nature of my question.

Mr. Derwinski. First, in a very general way, may I observe that there is always going to be a backlog because of the rapid technological advances in the field. We get a superb piece of equipment and 2 or 3 years later there is more equipment coming along that is a substantial improvement. In that sense, we always play catch-up. We have made a special effort. We received a supplemental in fiscal 1989. A good portion of that was invested in equipment.

I think Dr. Lewis could give you the rundown. I think the figure is correct, by the way. The backlog we show for 1991 is $791 million but that would be the entire list.

We think we are making progress in meeting the major needs of some of our medical centers. I have to tell you quite honestly that very often the final decision as to where the newest equipment is placed is sometimes driven by a relationship with the medical school and the needs of the students. All of those factors are included.

Could you pick up at that point, Doctor?

Dr. Lewis. Senator, I think, one, that in reality, there is a backlog. Two, the cost of equipment is skyrocketing. I think that is one of the concerns that will be addressed perhaps by the Secretary's Commission. We can't, for example, put an MRI in every hospital in the system. The cost would be prohibitive.

We also have the issue of replacement. That would be new equipment versus replacement equipment. To the extent that we have been able to address this, we have. We recognize the problem and we continue to address it. Regional directors have money that they are supposed to expend where these problems are identified.

Senator D'AMATO. Would it be fair to say, Doctor, that the replacement account needs some additional nourishment, over and above what has been provided?

Dr. LEWIS. Well, it is in vogue to say, yes, we need more equipment. I think though that one has to look at this responsibly and that's essentially what we are trying to do.

EQUIPMENT BACKLOG

Senator D'AMATO. I'm not suggesting that you are not attempting to balance the exigencies of the medical needs on a priority basis. I would only assume that that is the case.

But, what I am suggesting is that you can't allow this situation to continue. I hear it in the field; I hear it from the veterans groups that bring up situation after situation where basic equipment is in need of replacement.

Now, we could argue on semantics, what do you mean by basic. But, the equipment we're talking about is not just exotic but is necessary and in need of replacement and it's not being done in a manner in which I think we would agree is appropriate and necessary.

I would hope that we can take a much closer look at this problem. It may be that we need a special panel to assist in this examination.

If we need an infusion of dollars by way of a supplemental appropriation, you've got a very powerful committee here, in the person of the Chairwoman.

You have Senator Leahy. You have Senator Garn. And, so I really think that we are going to do ourselves a great disservice if we fail to confront this problem—risking the kinds of situations where if such and such a thing had been working, it could have made the difference in a life-threatening situation.

So, I would ask you if you could not, for the record, provide us with a breakdown as to what you believe the strengths and the weaknesses in the replacement schedule are and what you feel you should be doing in order of priority to address the weaknesses. All right?

[The information follows:]

EQUIPMENT BACKLOG

Recognizing that the Veterans Health Services and Research Administration (VHS&RA) has a tremendous backlog of replacement equipment needs, we have taken every opportunity to clarify and prioritize those needs and develop options to address them. The greatest weakness in our replacement program is our inability to direct resources from any one year's funding to substantially reduce or eliminate the backlog. Our need for modern state-of-the-art equipment is undeniable. However, given the demands of providing quality medical care to all of our beneficiaries and the fiscal reality that our ability to acquire funds to meet all of these needs is limited, we must necessarily accept the fact that we cannot expect to eliminate the backlog in the short term. Rather we prioritize our needs and make every effort to address our most critical needs first.

Therein lies the principal strength of our process in that for the last several years, including this fiscal year, we have dedicated a portion of our appropriation to the central funding of nationally prioritized high-cost high-tech equipment items as well as providing funds to the regional director for their use in addressing the priority equipment listings developed for their specific facilities. Reduction and eventual elimination of our equipment backlog will remain one of VHSRA's highest priorities.

SHARING

Mr. **Derwinski**. Senator, also I would like to point out that we recognize that we have to make these investments. We have many joint agreements with private hospitals and medical school hospitals which may have the equipment and we use it if we don't have it and, if we have the equipment they use it.

Senator **D'Amato**. That might be an interesting thing to report on. It would be useful if you would give us something in detail.

[The information follows:]

Sharing Agreements

We have made optimal use of existing authority under 38 U.S.C. 5053 to share, provide, or purchase specialized medical resources through sharing agreements with Federal, State, or community hospitals within the catchment areas served by Veterans Affairs medical centers. Designed to facilitate sharing of specialized medical resources with medical schools, hospitals, and clinics, insofar as such arrangements do not detract from providing health care to veterans, the program has steadily grown in the scope of services provided and obtained each year.

In its earliest days, as anticipated, program activity was almost evenly divided between services purchased and services provided. Since then, and as the newer medical technologies gained progressively wider acceptance and utilization, expenditures to obtain allied services for veterans health care increased materially. Thus, during the 15-year period after 1973, the program went from 120 contracts to almost 400 agreements currently valued at more than $49.4 million.

These sharing arrangements strongly support the original goals to improve the veteran's access to superior health care; fully utilize the diagnostic and therapeutic equipment facilities already in place at VAMC's around the country; and enhance community relationships by providing such capabilities for exchange and mutual use by the VAMC and the partner hospital.

VA/DOD sharing programs run the full gamut from providing a single clinical or subclinical service to those which make mutual use of the full range of a VAMC or military facility's clinical capabilities to remedy deficiencies, or furnish all of the other institution's medical needs. Agreements to regulate these activities cover some 2,660 hospital-based services, up more than 20 percent from those of fiscal year 1989.

In addition to these programs, and in accordance with congressional urging we have moved aggressively toward evaluation, procurement, and utilization of the most innovative advanced medical technologies. Our Advanced Technology Shared Equipment Acquisition and Operation Program provides for drastically reducing the costs of acquisition, maintenance and operation under a 50-50 arrangement with other governmental and private sector health care provider institutions. Now in its fifth year, the program continues to fulfill its expectations and has amply demonstrated its value by providing a reliable mechanism for timely acquisition and fiscally sound operation of patient care facilities at the very leading edge of current technology.

Senator **D'Amato**. I certainly understand the value—in situations where you have a relationship with a teaching hospital or a private hospital that has expensive equipment—of utilizing that as opposed to taking the less cost-effective approach of going out and purchasing some piece of equipment that may not give you the same level of service.

Mr. **Derwinski**. And, also sharing with DOD something they may need. We may be serving the same clientele and we have sharing agreements there.

Senator **D'Amato**. Yes; would you take a look at it. And, I thank you.

Senator Leahy, I think it's your turn.

PREPARED STATEMENT

Senator **Leahy**. Mr. Secretary, I am glad to see you here. I have a statement for the record, which I will insert in the record.

Senator **Mikulski**. Without objection.

[The statement follows:]

Statement of Senator Leahy

Mr. Secretary, good morning and welcome. Only 1 year on the job and you seem to be turning the corner at the Veterans Administration. I want to commend you and the President for the medical budget that you submitted for the 1991 fiscal year. This account grew by over 8 percent. I was disappointed, however, that you did not request a supplemental appropriation for the 1990 fiscal year.

As the first Secretary of Veterans Affairs, you inherited a VA medical system that faced a severe shortfall despite congressional add-ons totaling $1.7 billion over the past 8 years. The proposed budget for fiscal year 1991 would begin to reverse the trend of budgets that fail to keep pace with inflation while the number of veterans requiring care steadily increases.

I do not envy the chairwoman of this subcommittee for the tough job she has ahead of her in finding the money to match this budget proposal.

Mr. Secretary, I continue to be concerned, however, about medical care for rural areas. You are well aware that I feel rural VA medical centers, like White River Junction, frequently suffer at the expense of their urban counterparts. The VA has a responsibility to ensure not only quality but accessible care throughout the country.

One example why I think there is reason for alarm is the VA decision to discontinue funding for an innovative outpatient mental health program known as Veterans Integrated Community Care Program [VICC]. For several years at White River Junction, the VA has hired clinicians to treat veterans at their local community health care centers. Veterans and mental health professionals throughout New England claim that VICC has not only improved accessibility of mental health services to rural veterans but it also reduced costs.

Clearly my support for VICC seems parochial but I feel the VA could benefit from promoting similar programs in other rural areas. We should be looking for innovative ways to improve health care in rural areas, not shutting the doors.

Finally, Mr. Secretary, you announced last summer an initiative to establish a commission to review the VA medical care system. I agree that a mission review is long overdue, provided that the analysis is prepared in a fair manner. I will not support the recommendations of such a panel unless there is adequate representation for rural medical centers.

Again, welcome to the subcommittee, I look forward to hearing your testimony and working with you on these issues.

Senator **Leahy**. But, I do want to read one line from the statement:

> I want to commend you and the President for the medical budget that you submitted for the 1991 fiscal year.

Mr. Secretary, you and I have known each other for a long time. You are doing a fine job. You are continuing the excellent work you did on this side of the aisle. And I mean that.

WHITE RIVER JUNCTION

Senator **Leahy**. I also appreciate very much your involvement in the *Christopher Wright* case. The VA has been helpful on resolving the problems surrounding the case. I appreciate your efforts and I just wanted to make note of them.

VETERANS INTEGRATED COMMUNITY CARE PROGRAM

Mr. Secretary, you recently received a letter from Senator Jeffords, Senator Cranston, and myself concerning the decision to halt funding for the Veterans Integrated Community Care [VICC] Program at White River Junction.

I don't know if you have had an opportunity to review the letter. If you haven't, I will submit my question for the record on this matter.

Mr. **Derwinski**. I'm prepared to answer you and Senator Jeffords. Our basic answer will be that the White River Junction Medical Center is developing alternative methods to continue funding the program. And the regional director will review it. Hopefully, there will be a positive review.

Dr. **Lewis**. Initially, sir, if you recall, that program was a special program funded by the regional directors. I think, when they reviewed the program after the first couple of years it was felt that White River Junction had not participated to the extent that the regional directors wanted to continue funding it. The medical center at that point absorbed the cost. I think the funding runs out this year. They are in the process of submitting a request to the new regional director to reconsider and perhaps fund it on a regional basis again.

Mr. **Derwinski**. You will have a response tomorrow.

Senator **Leahy**. After I get the response, Madam Chair, I may have followup questions on that.

Mr. **Derwinski**. One comment on one of your first statements. I appreciate the fact that you get positive observations from the Democratic side, but it gives me an opening to say that the VA is probably the least partisan of all departments. We don't ask veterans their philosophies.

Senator **Mikulski**. And we want it to be.

Mr. **Derwinski**. We really work hard at trying to serve all of you. I think that's why we have this national interest.

Senator **Leahy**. I agree. I wouldn't want to suggest otherwise. I know in the years I have been in the Senate, first with Bob Stafford who was my senior colleague and now Jim Jeffords, we have always tried to approach veterans' issues in a bipartisan manner. We obviously have great interest in the facility at White River Junction. We have joined together many times in the 16 years I've been here on letters, requests or other projects for the VA.

I will be looking for the letter on VICC. I will be looking for money, too.

I have a number of other questions, Madam Chair, for the record. And, I will submit them for the record because of the hour.

Senator **Mikulski**. Without objection, so ordered.

ADDITIONAL COMMITTEE QUESTIONS

I, too, have a few other questions in terms of construction programs, some of which we have discussed privately. Questions on cost overruns and so forth, that we will want for the record.

We are going to wrap up this hearing now. Mr. Derwinski, we want to thank you for your testimony and for the work that we've had with Mr. Principi and your Budget Office. We know that you have new members on your team and we look forward to working with them.

I understand we are going to have a little picture taking.

Mr. DERWINSKI. Yes; we have a presentation for you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

MISSION COMMISSION

SENATOR MIKULSKI: How will the Commission address the question of equity of access, to assure that comparable levels of care to veterans are provided throughout the country?

ANSWER: The Commission will review the demography and epidemiology of the veteran population at the macro level and then at the State level. In addition, the eligibility criteria by population will be analyzed for the Commissioners to assess equity of access. The entire continuum of care will be analyzed facility-by-facility and within the community in which the facility is located to determine availability, i.e., a range of inpatient hospital, outpatient and nursing home services, as well as adult day health care, respite, and hospital based home care programs.

SENATOR MIKULSKI: When will you have all the members of the Commission on board?

ANSWER: The fifteen members were selected and an announcement was made on May 29, 1990.

SENATOR MIKULSKI: What criteria are you using to select members of the Commission?

ANSWER: General requirements for appointment to the Commission were knowledge of VA programs and veterans' issues; distinguishment in their fields; multiple areas of expertise; availability to be "working" as opposed to ceremonial Commission members; and ability to be forward thinking and future oriented. Specific health care expertise sought in Commissioners were acknowledged skills in planning, policy, economics, administration, clinical care (physicians, nurses, social workers, etc.), education and research. We screened candidates for skills in certain disciplines such as geriatrics, mental health and behavioral sciences and rehabilitation. Also, we searched for candidates with prominent experiences and credentials in public policy making, private enterprise, and urban and rural health affairs.

The Federal Advisory Committee Act requires all advisory committees to be balanced as to levels of expertise and qualifications, as well as to geographic and social mix. We believe our selection of Commission members reflected such requirements.

SENATOR MIKULSKI: Will the Commission be emphasizing expertise in geriatrics in choosing their members? Will the selection reflect the importance of understanding changing demographics?

ANSWER: The answer to both questions is, yes.

NURSING HOME ESTIMATES

SENATOR MIKULSKI: The Paralyzed Veterans of America (PVA) estimates VA needs to accommodate 33,000 patients in VA nursing homes in 91, yet VA's projected number of patients is only 28,000. Do you dispute PVA's estimates? If not, why do your estimates fall so short of the need?

ANSWER: We are not aware of the basis for the PVA estimate. VA's projection of 28,193 patients treated is based on an estimated length of stay of 250 days in approximately 13,174 nursing home beds at a projected occupancy rate of 93 percent. We do not believe it probable that these parameters will change, therefore, the estimate of 28,000 patients is the best estimate VA has.

SENATOR MIKULSKI: How many vets applying for nursing home care are turned away?

ANSWER: Applicants for admission to VA nursing home care units who are eligible for care are not turned away. If a bed is not immediately available, the veteran may be placed on a waiting list for later admission. 1,030 applicants were placed on a waiting list in FY 1989. However, it is also known that some applicants, understanding that their admission priority is low, decline to be waitlisted and make other plans for care, often with the assistance of a VA social worker. There is no information regarding the number of this group of veterans.

PLANS FOR YEAR 2000

SENATOR MIKULSKI: What is the basis for your plan to support only 12-16 percent of all veterans requiring nursing home care by the year 2000? Will the Mission Commission use the 16 percent assumption in determining possible mission changes for the year 2010?

ANSWER: In 1983, the Nursing Home market share ranged from 12-16 percent. A policy decision was made at that time to continue planning at the same level for future nursing home care needs. This market share continues to be used by VA in planning for nursing home care. The actual level of market share experienced by VA for the period 1987-1989 has been above the 16 percent market share, averaging approximately 20 percent for that period. If this trend continues, consideration will be given to revising the market share policy upwards.

The Commission on the Future Structure of Veterans Health Care is an advisory group to the Secretary of Veterans Affairs. The Commission's first meeting is scheduled for June 1990. The Commission will be focusing on possible mission changes for the year 2010 and beyond. The Commission is not bound by any market share, but will conduct analyses to determine the probable nursing home bed levels needed in those years.

NURSING HOME PROGRAMS -- RELATIVE COSTS OF CARE

SENATOR MIKULSKI: Does the relative cost of patient care in each of the three types of nursing homes remain the same when construction and other medical costs are included? If not, what is the relative cost of caring for a veteran taking into account construction and other costs? What are you doing to maximize placements in the least costly program (state homes)?

ANSWER: To determine how the construction grants affect the cost for veterans care in State homes, a qualified consultant would be needed to conduct a study to analyze each State, VA participation in the cost of construction over a period of time, and factor these figures into the established per diem rates for all State homes in order to obtain a national average. VA has not factored the construction costs for State homes into the overall cost of care in State homes. Such a study might show an increase in the total VA participation for some States while others would remain the same. It depends upon whether or not a State has received construction grant funds, in what amounts, and for what period of time. For small construction grants, the increase in VA participation would likely be small and for larger grants, the increase in VA participation would likely be larger. It is not believed that the increase would reach one-half the cost of care in State homes allowed by law. Average per diem cost in State nursing homes during Fiscal Year 1989 was $86.86. The range was from $43.35 to $153.15. VA provided $20.35 as partial per diem reimbursement to the States for the cost of care to eligible veterans.

VA has no authority to place patients in State homes. State homes are owned and operated by the States that establish their own admission criteria. Sections 642 and 5037 of Title 38, United States Code, prohibit VA from exercising any authority over the management or control of any State home. This includes placement of veterans in State homes by the Federal Government.

SENATOR MIKULSKI: A 1986 GAO report (GAO/HRD-86-111BR) found that VA lacked comparable data on the medical and nursing needs of patients in VA community and state homes. If VA has gathered these data, do differences in cost of care in the three programs reflect differences in patients' medical and nursing needs? Does VA consider cost in deciding which nursing home program is best for the patient? If not, why not?

ANSWER: VA has not collected comparative data on the patients in all three nursing home care programs.

The Department has found that hospital-based nursing homes, whether VA-operated or operated by community hospitals, are more expensive than free-standing community facilities by virtue of the hospital affiliation. In VA-operated nursing homes, a wider array of services are available. A 1987 evaluation of VA's nursing home programs, conducted by Price Waterhouse, found a greater emphasis on expensive rehabilitation services in VA nursing homes than in community facilities. VA nursing homes use a significantly higher proportion of registered nurses and licensed practical nurses (as opposed to nursing assistants) than community nursing homes. As a function of the hospital affiliation, administrative, engineering and building management costs are higher. These factors explain the difference in the cost of care.

VA does not consider cost in placing a patient in one of the nursing home care programs. The clinical care needs of the patient dictate placement.

SENATOR MIKULSKI: VA's cost per patient is lower in community nursing homes than in VA homes, yet I notice that the projected census in community homes is projected to be 27 percent lower than FY 88 levels. Why is the census projected to fall? Isn't it possible for VA to provide for larger number of veterans in nursing homes by providing care in the less costly type of nursing home?

ANSWER: The census in the Community Nursing Home Program (CNH) was already reduced by 27 percent from the FY 1988 level. There is no planned increase for the Community Nursing Home Program (CNH) for FY 1991. As you know, nursing home care is not a mandated service and for the past two years we have used funds from the CNH Program to cover programs treating veterans whose eligibility for services is mandated. The Department views FY 1991 as a stabilizing year for the CNH Program and we are planning for an expanded CNH

Program in the future. The program is and will remain a vital component of our nursing home strategy.

BED CONVERSIONS

SENATOR MIKULSKI: If you are really trying to accommodate an increasing number of veterans in nursing homes, why aren't you planning to convert any unoccupied beds into nursing home beds, given that the occupancy rate is only about 70 percent?

ANSWER: VA is planning to convert hospital bed space to nursing home care space. Based on the current Veterans Health Services and Research Administration Nursing Home Care Plan (dated March 31, 1990), between 1990 and 2000 VA has identified 1,680 hospital beds that will be converted to nursing home care beds. There is potential for additional conversions of 3,000 to 4,000 beds to ensure that underutilized hospital beds are converted to nursing home beds where needed. The feasibility of these additional conversions is presently being studied.

Please note that the 70 percent occupancy rate should not be construed to be the sole measure of facility productivity as many variables affect the occupancy rate. Numbers of patients treated, increases and decreases in length of stay and authorized beds closed for reasons of construction, staffing shortages etc. all affect the occupancy rate. Since these variables do change, the unoccupied beds should not automatically be assumed to be available for conversion to nursing home care.

SENATOR MIKULSKI: How many patients are currently being cared for in VA acute care and intermediate care beds who could be more appropriately cared for in VA or VA-supported community nursing home bed? Are all these patients waiting for an available bed in VA's nursing home programs? If not, why do they remain at higher levels of care than needed? For those who are awaiting a nursing home bed, identify medical centers with the largest backup of such patients. How much does it cost VA annually to keep these patients in acute care and intermediate care beds rather than in nursing home beds? Why do you not propose to convert such beds to nursing home use?

ANSWER: Periodically, the Department surveys a sample of patients and has the nurse and social worker determine the appropriate location of care for the patients. The latest survey was conducted in August 1989. In acute medical beds 7,535 patients were evaluated; 4,999 patients in intermediate care were evaluated.

In acute care the survey found that 379 patients, or 5 percent, would be more appropriately placed in a nursing home. (Ninety-five percent of the patients were appropriately placed in acute care). For the 379 patients awaiting nursing home placement, the major reasons for continued hospitalization were: nursing home bed unavailable or nursing unwilling to accept patient - 27 percent (102 patients); no impediments to discharge and nursing home care being arranged - 16 percent (61 patients); and patient still required hospitalization on the day of the survey - 11 percent (42 patients). The remaining 174 patients had other, miscellaneous impediments to discharge to a nursing home.

In intermediate care, 1,174 patients, or 23 percent, would be more appropriately placed in a nursing home. (Seventy-seven percent of the patients were appropriately placed in intermediate care). For the 1,174 patients awaiting nursing home placement, the major reasons for continued hospitalization were: nursing home bed unavailable or nursing unwilling to accept patient - 41 percent (481 patients); no impediments to discharge and nursing home care being arranged - 10 percent (117 patients); and patient still required hospitalization on the day of the survey - 10 percent (117 patients)

The remaining 459 patients had other, miscellaneous impediments to discharge to a nursing home.

Information on individual medical centers is not available at this time. This information will be provided to the Committee in the near future.

It is not possible to determine the cost of care of these patients as the survey examines a point-in-time and does not follow patients through their course of treatment. Although placed in an acute or intermediate care bed, we believe that these patients receive actual services consistent with their current clinical needs, therefore closely approximating expected nursing home care cost.

VA's plans for bed conversions are discussed above in the previous question.

SENATOR MIKULSKI: To meet your bed supply goal, how many VA nursing home beds do you expect to add by 2000? How many will be added by converting unused VA hospital beds or space to nursing home use? How many will be added by converting acute care beds and intermediate care beds that are occupied with patients needing nursing home care?

ANSWER According to the most recent assessment of need documented in the Veterans Health Services and Research Administration Nursing Home Care Plan, dated March 31, 1990, VA plans to add 5,763 VA owned and operated nursing home beds between 1990 and 2000. Of that total 1,680 beds will be converted from VA hospital bed or other space; 1,362 of these beds will be converted from a combination of acute care and intermediate beds. The VA is presently exploring the possible conversion of an additional 3,000-4,000 hospital beds to nursing home beds by the year 2000.

VA will continue to assess and refine the total number of nursing home beds to be provided in the future based upon nursing home needs assessments conducted through MEDIPP (Medical Center Initiated Planning Process).

SENATOR MIKULSKI: What will you do to help ensure that all beds suitable for conversion are identified?

ANSWER: VA policy supports conversion of existing hospital space to nursing home care beds in lieu of construction of new beds. VA planning guidance requires that after the need is determined, the Medical Center Director and Region representatives determine whether conversion of existing hospital space can be used to meet the need. Only after determining that conversion of hospital space cannot meet the need is new construction considered.

VA will continue this policy to ensure not only that beds suitable for conversion are identified, but also that beds are located in areas in need of additional nursing home care beds.

STATE HOMES

SENATOR MIKULSKI: Last year VA testified to this subcommittee (p. 538) that it would be offering additional incentives to encourage states to participate in the state programs. What are these incentives? What evidence do you have that they are working? How many more states have requested to participate in the program? How many states have made requests to expand their existing program?

ANSWER: The additional incentives to encourage States to participate in the State Home Program include an increase in the per diem rates from $20.35 to $21.83 for Fiscal Year 1990 for nursing home care and hospital care and from $8.70 to $9.33 for domiciliary care. Other incentives have been to accommodate States with unique proposals to construct State homes such as the physical connection of a State-owned nursing home wing to an existing private hospital. The priority list has also served as an incentive to encourage more States to participate in the State Home Program.

Evidence that the incentives are working include the backlog of eligible applications which now totals about $161 million and the increase in the number of States which appropriate State matching funds (Group 1 applications). During Fiscal Year 1990, we had 12 group 1 applications totaling about $16.6 million from States for which we do not have Federal funds. During Fiscal Years 1988 and 1989, we had sufficient Federal funds with a $42 million appropriation to fund all group 1 applications.

Since the priority list established in August 1989, VA has received 5 additional preapplications from three States totaling about $7 million. However, many of the States with applications on file have obtained State matching funds and will be considered for group 1 on the next priority list to be established by law as of August 15, 1990, for funding during Fiscal Year 1991. Attached is a copy of the current priority list established as of August 15, 1989. It indicates the States and the types of projects for which they are requesting Federal assistance. Based on this list, there are 4 new States entering the Program. Two grants have been awarded and construction is underway (Kentucky and Tennessee). Two States are designing facilities and grants are expected to be awarded before the end of Fiscal Year 1990 (Virginia and Arizona). There are 8 States remaining which do not have a State home or an application on file with VA for a State home. There are applications from 10 States to construct new State homes, from one State for a replacement facility, from 5 States to expand State homes, and from 2 States to convert domiciliary beds to nursing home care beds. There are also about 25 applications from States to renovate their State homes with projects ranging from fire alarm systems to installing thermal windows.

PRIORITY LIST OF APPLICATIONS PENDING
APPROVAL OF STATE HOME CONSTRUCTION GRANTS 1/
AS OF AUGUST 15, 1989
PAGE 1 OF 2

RANK NO.	PRIORITY GROUP	FAI No.	STATE (Locality)	PROJECT DESCRIPTION	ESTIMATED GRANT REQUEST (000)
1	1	51-001	VA (Roanoke)	148 NHC/76D	$11,300
* 2	1	21-001	KY (Wilmore)	240 NHC/60D	9,670
3	1	04-001	AZ (Phoenix)	200 NHC	9,223
* 4	1	42-008	PA (Hollidaysburg)	148 NHC	6,649
* 5	1	39-010	OH (Sandusky)	300 NHC/D	13,301
* 6	1	42-010C	PA (Southeastern)	180 NHC	3,621
7	1	42-014	PA (Scranton)	270 NHC/30 D	15,043
8	1	38-003	ND (Lisbon)	D to 38 NHC	2,170
9	1	16-003	ID (Pocatello)	60 NHC/22 D	2,971
10	1	08-008	CO (Walsenburg)	120 NHC	2,789
*11	1	26-005	MI (Marquette)	50 NHC	2,080
*12	1	27-007	MN (Silver Bay)	89 NHC	1,664
*13	1	08-010	CO (Homelake)	50 NHC	1,146
14	1	55-012	WI (King)	204 NHC	7,800
15	1	27-010	MN (Luverne)	83 NHC	3,602
*16	1	08-009	CO (Florence)	Ren.Dining NHC	50
17	1	25-032	MA (Holyoke)	Handicap Access	147
18	1	53-020	WA (Orting)	Main. Bldg.	55
19	1	55-013	WI (King)	Fire Alarm Sys.	115
20	1	53-022	WA (Retsil)	Asbestos Rem.	325
21	1	53-023	WA (Orting)	Asbestos Rem.	139
22	1	34-015	NJ (M. Park)	NHC Link	83
23	1	34-016	NJ (M. Park)	Alzheimer Patio	29
*24	1	42-015	PA (Erie)	Heat System/Dom	1,465
25	1	53-021	WA (Retsil)	Thermal Windows	13
26	2	47-001	TN (Knoxville)	150 NHC	5,045
*27	2	47-002	TN (Murfreesboro)	120 NHC	4,420
28	2	72-001	PR (Juana Diaz)	250 Dom	7,203
29	3	24-003	MD (C. Hall)	126 NHC/D	3,047
30	3	24-004	MD (C. Hall)	126 NHC/D	5,298
31	3	39-015	OH (Sandusky)	200 NHC/D	8,281
32	3	06-017B	CA (Yountville)	Ren. NHC 1-3B	2,482
33	3	06-024	CA (Yountville)	Ren. NHC 1-3C-D	3,120
34	3	06-026	CA (Yountville)	Ren. Annex I	2,441
35	3	06-027	CA (Yountville)	Ren. Annex II	2,441
36	3	06-035	CA (Yountville)	Ren. Adm. Bldg.	325
37	4	29-004	MO (St. James)	Add 50 NHC	2,420
38	4	19-026	IA (Clarinda)	68 NHC	2,647
39	4	29-007	MO (St.Louis)	200 NHC	7,800

PRIORITY LIST OF APPLICATIONS PENDING APPROVAL OF STATE HOME CONSTRUCTION GRANTS 1/ AS OF AUGUST 15, 1989

PAGE 2 of 2

RANK NO.	PRIORITY GROUP	FAI No.	STATE (Locality)	PROJECT DESCRIPTION	ESTIMATED GRANT REQUEST (000)
40	4	17-011	IL (LaSalle)	120 NHC	4,680
41	4	16-004	ID (Northern)	60 NHC/10 D	2,979
42	4	17-014	IL (Anna)	60 NHC	2,535
43	4	19-027	IA (Marshalltown)	Dietary Facility	2,491
44	4	40-012	OK (Clinton)	Dining/Kit Ren.	1,034
45	4	17-012	IL (Quincy)	Ren. Kitchen	285
46	4	17-013	IL (Quincy)	D to 85 NHC	1,625
47	4	06-020	CA (Yountville)	Ren. Dom H	1,369
48	4	06-021	CA (Yountville)	Ren. Dom J	933
49	4	06-022	CA (Yountville)	Ren. Dom K	854
50	4	06-023	CA (Yountville)	Ren. Dom L	812
				TOTAL:	$172,017

1/ Applications have not been approved but have been received and ranked pursuant to Title 38, United States Code, Section 5035, and Title 38, Code of Federal Regulations, Sections 17.170 through 17.177.

* Indicates application was on the August 15, 1988, priority list, and is scheduled for funding prior to September 30, 1989. If funds for these grants are not obligated prior to September 30, 1989, applications will be funded in Fiscal Year 1990 in the order which they appear on this list, subject to the availability of Federal funds and compliance with all Federal requirements.

This priority list, established as of August 15, 1989, is hereby:

[✓ APPROVED]/~~DISAPPROVED~~

Edward J. Derwinski
Secretary

NON-INSTITUTIONAL CARE

SENATOR MIKULSKI: What is VA doing to meet the non-institutional care needs of aging vets? Why hasn't the Department developed a strategic plan to meet those needs? Will you commit to giving us one before the submission of next year's budget?

ANSWER: The Department has supported non-institutional care programs that emphasize the medical and health care needs of patients. VA has established 15 VA-operated Adult Day Health Care Programs and has contracts with 92 community-based programs. The Department has expanded Hospital Based Home Care by 46 percent over four years for a total of 73 programs.

The Department has developed a strategic plan for the health care needs of aging veterans which includes non-institutional long-term care programs. The Department is completing the final report as requested. We have begun efforts to expedite the review at the Office of Management and Budget.

GERIATRIC EVALUATION UNITS

SENATOR MIKULSKI: What is your assessment of the success of GEUs in the 87 medical centers that have these programs?

ANSWER: Although a formal evaluation of the GEU program as a whole has not been done, information on patients receiving care in GEUs has been reviewed. Based on this information and other data on GEUs, we believe that they have been very successful in identifying problems previously undiagnosed, decreasing inappropriate use of medications and increasing discharges of this frail elderly population to home with family and/or community support, thus decreasing nursing home placement. VA's Office of Research and Development, Health Services Research and Development Service is planning to fund a multi-site randomized trial to validate the results of existing single site trials such as the one done at the Sepulveda GRECC. Results of this research, the first multi-center trial on GEUs to be initiated in the United States, will be valuable in determining the full impact of this geriatric program.

SENATOR MIKULSKI: Who decides whether there is a need for a geriatric evaluation unit in an individual medical center?

ANSWER: A VA medical center develops a plan for the establishment of a GEU and submits through Medical District Initiated Program Planning (MEDIPP) for approval.

SENATOR MIKULSKI: What resources are required to establish a GEU?

ANSWER: During fiscal years 1991 and 1992, the VHS&RA intends to have Geriatric Evaluation and Management (GEM) teams functioning at all VA Medical Centers. On average such units will involve less than $100,000 in additional cost.

RECRUITMENT AND RETENTION

SENATOR MIKULSKI: What would you say are the biggest problems confronting VA in terms of recruiting and retaining high quality medical professionals? Is it purely a function of not being able to pay competitive wages [or are there not enough opportunities for advancement, etc]?

ANSWER: The problems VA is confronting in recruiting and retaining professional staff are numerous but they are basically related to pay. In many instances salaries for VA nurses and physicians and other occupations such as Occupational Therapists, Physical Therapists, Pharmacists, etc., are not competitive with those paid by the private sector. In addition, salary schedules for physicians and nurses suffer from severe pay compression. In both cases, salaries for staff employees are approaching those salaries paid to supervisory personnel. In some cases these salaries are the same. There is little or no incentive for professionals to assume greater administrative responsibility. In addition, among our nurse professionals, staffing shortages due to inadequate pay and the general scarcity of nurses has required that the VA use rotating schedules. This has a very negative impact on VA's ability to recruit and retain nurses. Similarly, staffing shortages have increased the workload for our nursing staff and this contributes to our recruiting/retention difficulties. Other factors which add to our recruitment and retention problems are a lack of sufficient funds for replacement equipment, educational opportunities and research.

SENATOR MIKULSKI: Would you say your health professional scholarship program has been successful in recruitment? If so, why aren't you requesting an increase above FY 90 level given the nursing shortage you have?

ANSWER: Yes. To date, 1,345 scholarship graduates have been placed in service obligation at VA medical centers with the greatest need for health care personnel. Although the Health Professional Scholarship Program has been a successful recruitment tool, the VA has proposed other programs such as elimination of nurse rotating shifts and nurse pay reform which the VA believes will be more effective than additional resources to this program.

SENATOR MIKULSKI: What is status of the pilot nurse recruitment program? Any early indications as to its success? If successful, will pilot program be put into place nationwide? Has any cost/benefit analysis been performed to determine how much "bang for the buck" this program gives VA?

ANSWER: VHS&RA has initiated a number of pilot programs to increase the number of health care professionals in the system. The career ladder pilot designed to "grow our own", patterned after the upward mobility program, by supporting 165 current employees in full time study to obtain an associate degree in nursing is operating in 27 VAMCs with the highest vacancy rates. The first quarter reports indicated a very high degree of satisfaction on the part of the students and medical center management. All reported that the program stimulated an immediate improvement in morale of all employees.

The activation pilot is similar to the career ladder program except that it focuses in on medical centers that have new bed activation scheduled in the future. This will help assure the appropriate number of employees to staff the new beds in a very tight labor market.

These pilots were initiated in September 1989. Quarterly reports are received from the medical centers involved and indicate that they are successful. A cost benefit analysis will be accomplished upon the completion of the pilots. This analysis will include individual success and retention of graduates during and after obligated service. However, if our own "home grown" staff serve out the 3 to 1 obligated service, and replace FTEE currently filled by contract nurses costing approximately twice permanent staff salaries, the benefit should be significant.

AIDS

SENATOR MIKULSKI: GAO issued a report recently stating that AIDS could cost the military and veteran health care systems $3 billion by the end of the decade. Please provide an estimate of the number of VA patients to be treated with AIDS and associated costs, on a per year basis, for the next 10 years.

ANSWER: GAO issued the report, Effects of AIDS in the Military, in February 1990. That report stated, "In response to a growing concern over AIDS, in 1986 the Army began allocating and tracking some HIV/AIDS expenditures. Using these data, it has estimated that the lifetime cost (10 years) to DOD to provide medical care to each HIV-infected service member will range from $157,000 to $208,000. This estimate assumes that the incidence rate for personnel testing HIV positive will remain constant and that 60 percent of the patients will seek health care within the DOD health care system. Using the same assumptions the Army projects that HIV/AIDS will cost DOD $3 billion over the next 10 years. GAO noted that civilian sector cost estimates have been lower because of a number of factors: (1.) incomplete cost data for the civilian sector (2.) availability of less expensive alternative methods of care such as home health care, hospice, and nursing homes not available in the military, and (3.) earlier treatment in the military. If the GAO/military estimate that 60 percent will seek care in the military, then 40 percent could be expected to seek care in VA facilities. Of the 6,269 active duty who have tested positive over the (almost) four years during which the military has been testing personnel, only 2,069 (or approximately 500 per year) have actually become infected while on active duty. If this rate continues over the next 10 years, it will have a modest effect on the VA caseload since VA facilities are reporting an average of 175 new cases per month in addition to veterans who were previously reported and those with symptomatic and asymptomatic HIV infection who are seeking treatment earlier.

VA is not able to provide estimates of caseloads for the next ten years because of the uncertainty concerning the relatively short-term future course of the epidemic. CDC has only forecast cases through 1993. A GAO study released in June 1989, AIDS Forecasting, pointed out the significant variation and range in short-term forecasts even for 1991 and stated that the variation and error would be even greater for long-term forecasts. The AIDS Technical Advisory Group of the Resource Allocation Steering Committee is currently working on estimates of both caseloads and costs for HIV+, ARC and AIDS for 1991 and 1992. The current estimate for 1991 is as follows:

	# of Patients	Total Cost (millions)
AIDS	6,507	$193.0
ARC	2,965	$ 37.1
HIV+	6,657	$ 18.6
	16,129	$248.7

SENATOR MIKULSKI: Does your budget request adequate funds to cover the entire cost of treating AIDS patients?

ANSWER: Consistent with previous fiscal years, the cost of providing care to veterans with HIV related diseases is funded from within the total appropriation approved by Congress. The current estimated cost in 1991 is approximately $249 million and will be funded from within the $12.2 billion appropriation request for Medical Care.

SENATOR MIKULSKI: How many patients with AIDS do you currently treat?

ANSWER: According to the FY 1989 Patient Treatment File (PTF) and a system-wide survey of HIV/AIDS outpatients seen in VA facilities, the following number of patients, by disease category, received care from VA during FY 1989:

HIV+	4,438
ARC	1,977
AIDS	4,338

PATIENTS TREATED

SENATOR MIKULSKI: The FY 89 budget estimated that 1,227,186 (FY 90 budget p.6-39) inpatients would be treated with the budget requested. I note that only 1,151,848 were actually treated, 6 percent fewer than projected. Why was the number of inpatients treated 6 percent fewer than projected in 1989, particularly given the fact that a $345 million supplemental was provided?

ANSWER: The primary reason actual FY 1989 workload was down from the original estimates was the cumulative effect of decreasing appropriations as measured against inflation and increasing demand. VA has not received sufficient appropriated funds to continue its historical level of medical care to those veterans whose treatment is authorized but not mandated by law. This was evidenced during FY 1989 when treatment to the category B and C patients was sharply curtailed. When the supplemental resources were received, the Community nursing home care program and staff outpatient visits did increase.

SENATOR MIKULSKI: Similarly, the 1990 budget (p. 6-45) estimated 1,203,219 inpatients would be treated. You are now projecting 1,161,196 -- a drop of 3.5 percent. Yet VA received a $600 million increase to the budget request for medical care. Why is the number of inpatients projected to fall by 42,023 from the original estimate?

ANSWER: Estimates of workload for 1990 are impacted by what is actually accomplished in 1989 (the base year for 1990 estimates). The 1990 budget estimate of 1,203,219 patients treated assumed a 1989 base estimate of 1,234,987 patients treated. Because of budget shortages recognized in 1989, the actual workload accomplished was only 1,151,848 patients treated (a 6.7 percent decrease from the estimate). As a consequence, the estimated patients treated for 1990 was lowered.

Despite this adjustment in the 1990 estimate, patients treated are projected to increase 9,348 and outpatient visits, 216,000 compared to 1989 actuals. Although Congress added $585 million to the President's 1990 request, the resulting appropriation is only $438 million over 1989 actuals. The cost of inflation, 1990 payraise and other normal payroll increases for existing employment exceed this appropriated increase.

EQUIPMENT BACKLOG

SENATOR MIKULSKI: What is the current backlog of equipment? Please provide a list specifying the type of equipment, its cost, and the individual VAMC in need of the equipment.

ANSWER: Attached is a facility-specific list of equipment items with acquisition costs of $100,000 or more in need of replacement before the end of fiscal year 1991.

The current status of the replacement equipment backlog is shown below: (Backlog list is retained in committee files.)

Replacement Equipment (Object Class 31)
(dollars in millions)

	1989	1990	1991
Prior Year	$393.3	$497.4	$637.8
Current Requirements	250.6	258.6	266.9
Total Requirements	643.9	756.0	904.7
Request	146.5	118.2	113.2
End of Year Backlog	$497.4	$637.8	$791.5

SENATOR MIKULSKI: Do you have a plan to reduce this backlog?

ANSWER: There is a national priority system which is implemented each year after the equipment budget is received. Our ultimate goal is to eliminate the backlog. With over $250 million worth of equipment coming due for replacement each year (added to the prior year's backlog), budgeted resources are very critical. The success in meeting this goal will depend on the approved level of budgeted resources applied to the backlog.

MEDICAL RESEARCH

SENATOR MIKULSKI: Please describe the "Blue Ribbon" panel created to examine VA's research program? What are the goals of the panel? When will they report their findings? What do you plan to do with their recommendations?

ANSWER: The "Blue Ribbon Panel", officially titled the Advisory Committee for Health Research Policy, is a Federal advisory committee that was chartered in January 1990. This committee is comprised of 18 members selected on the basis of expertise in the conduct and administration of biomedical, health services, and rehabilitation research. All members are also knowledgeable in broad areas of health policy and education. The committee's goal is to evaluate the VA research program and provide objective objective, independent advice and recommendations on the need, if any, to revise longstanding policies. More specifically, the committee, will address the following issues: (1) Is VA's research appropriately balanced among health research subject areas? (2) Is VA's research appropriate to the role of VA in providing medical and other health care services to veterans? (3) Is VA's research program appropriate vis-a-vis research programs of other Federal agencies, including the National Institutes of Health? and (4) What is the overall quality of VHS&RA's research program?

The committee is scheduled to provide an interim report of its findings and recommendations to the Secretary of Veterans Affairs in July, 1990; final report is planned by January 1991. The findings are expected to influence the VA request for the Medical and Prosthetic Research appropriation for FY 1992. The committee's recommendations will be studied carefully with a view toward early implementation.

SENATOR MIKULSKI: Isn't the medical research program an important tool in retaining medical personnel? If so, why are you cutting it by 7 percent?

ANSWER: VA's medical research program historically has been a powerful factor in recruiting and retaining high quality physicians since its beginning in 1946. The research account receives supplemented funding from other Federal and non-Federal agencies such as the Department of Defense and the National Institutes of Health, that have augmented the accounts funding structure. The VA is awaiting the results from the "Blue Ribbon Panel" before the Department reevaluates the research funding structure.

SENATOR MIKULSKI: What percent of all approved research proposals are actually funded? With the budget requested for fiscal year 1991, what percent of proposals will be funded?

ANSWER: In FY 1990, 45.3 percent of all approved research proposals are being funded. This is achieved in part with $20 million transferred to DVA from the Department of Defense. With the budget requested for FY 1991 plus $9 million DoD carryover from FY 1990-1991, 17 percent of approved research proposals will be funded. Without $9 million of DoD funding carried over from FY 1990 the funding of approved research proposals will be funded.

SENATOR MIKULSKI: What percentage of all VA research is devoted to studies related to aging?

ANSWER: In fiscal year 1989 funding for research studies on the biology of the aging process represented 10 percent of the research budget. Medical and psychologic studies of diseases prevalent in the aging population, e.g., cancer, heart disease, stroke, dementia, etc. comprised 50 percent of total research spending.

THIRD PARTY REIMBURSEMENTS

Legislation is proposed in your budget submission to establish a collection effort to increase third party medical recoveries. The administrative costs of establishing this effort would total $25 million in FY 91. You are also proposing to recover the cost of treatment from health insurers of service-connected veterans who are treated for non-service connected illnesses.

SENATOR MIKULSKI: Billings are projected to increase 71 percent to about $600 million. Collections are to increase to about $506 million in FY 1991. What percent of the increase in billings and collections each will result from recovering the costs of treating service-connected veterans for non-service connected illnesses?

ANSWER: In FY 1991, we have estimated that $130 million would be billed to service-connected veterans for treatment of their non-service connected conditions. This would be 53 percent of the increase in total billings and 30 percent of the increase in total collections.

SENATOR MIKULSKI: What proportion of the increases will result from more effective management of the billing effort?

ANSWER: A more effective management effort will result in an increase in the billing effort. A more effective management effort is predicated on the third party medical recoveries fund proposed for FY 1991. In this proposal is a request for 300 additional FTEE to be allocated specifically to the third party program. The billing effort is very labor intensive and requires the additional resources being requested in the legislation to achieve maximum results for the program.

SENATOR MIKULSKI: How much did VA lose in FY 1989 and FY 1990 because of VA's ineffective management of collections. What will VA do to recover these lost revenues?

ANSWER: In the GAO report just released, they estimate with some caution that VA could have collected an additional $233 million from insurers in FY 1988. An estimate for FY 1990 is not provided. They qualify their estimation stating that data limitations produced some uncertainty and provided a range of potential collections. We are exploring the possibility of having our facilities initiate a back billing effort to cover the time period from January 1, 1989 through the present. This would be extremely labor intensive as there is no current automated mechanism to perform this task without human intervention (i.e. manual medical record review to identify billing cases, reviewing medical record documentation, initiating billing).

SENATOR MIKULSKI: What reaction have you received from veterans' groups as to the proposal to seek third party reimbursements from service-connected veterans?

ANSWER: To date the Administration (VHS&RA) has not received any official response/reaction from the veterans organizations.

CONSTRUCTION - COST OVERRUNS

SENATOR MIKULSKI: What percent of projects do you estimate will have cost overruns in FY 91, based on the new policies and procedures you plan to implement in the construction program?

ANSWER: Based on our new policies and procedures, we do not expect projects funded in FY 91 and later to have cost overruns.

SENATOR MIKULSKI: Do you have a goal you are striving to reach with respect to reducing the number and cost of reprogrammings? If so, what is that?

ANSWER: It is our goal to eliminate cost overruns and thus the need for reprogrammings altogether. However, we recognize that this may not be achievable because of the uncertainties of the construction industry. Cost overruns can be caused by a single or a combination of several factors, including: client requested changes; unforeseen project conditions; inadequate or insufficient designs by the architect-engineer; delays in projected timetable for construction; or an inaccurate estimate of cost when establishing the initial project budget. A variety of planned and ongoing construction program improvements have been implemented to reduce and assist in eliminating the incidence of cost overruns and are discussed in the attached report.

SENATOR MIKULSKI: If not, how do you plan to measure your progress in improving management of the construction program?

ANSWER: As stated previously, we do have a goal to eliminate cost overruns. We plan to closely monitor any potential cost overruns to determine the causes and continue to make adjustments to our policies and procedures, as necessary, to ensure that we achieve our goal.

CONSTRUCTION COST OVERRUNS

EXECUTIVE SUMMARY

DEFINITION

Major construction cost overruns generally occur when funds over and above the congressionally approved budget are required either to make a construction contract award or to complete a project already under construction.

CAUSES

- Cost overruns can be caused by a single or a combination of several factors including: client requested changes, unforeseen project conditions, inadequate or insufficient designs by the architect-engineer, delays in projected timetable for construction, or an inaccurate estimate of cost when establishing the initial project budget. The problem becomes most apparent when bid proposals are unusually high or when significant changes or delays occur during actual construction.

- Factors which contribute to the number of cost overruns experienced by VA can be broadly categorized into two major categories: "Changes" and "Inaccurate Estimating."

PROGRAM IMPROVEMENTS

A variety of planned and ongoing construction program improvements are being implemented to reduce the incidence of major construction cost overruns. These improvements are to occur in the following areas:

- Cost Estimating - Dealing with market volatility; roles of in-house and contracted cost consultants; use of bid alternates; reduction of time between establishing budget estimates and construction contract award.

- Design Changes - Increased levels of review and approval; improved design development; minimize changes after establishing budget.

- Facility Development Plans - Improved project definition and program requirements.

- Better Developed Early Designs - Full utilization of design development process which fixes project cost and scope for budget inclusion.

- Alternative Construction Techniques - Construction management; design-build; lease/purchase.

- Oversight of Architect-Engineer Contracts.

- Project Phasing and Constructibility Improvements.

- Value Engineering.

- Equipment Coordination.

- Project Financial Monitoring and Construction Supervision.

CONSTRUCTION COST OVERRUNS

BACKGROUND

The construction cost overruns experienced by the Department of Veterans Affairs (VA) Major Construction Program have generally occurred when funds over and above the congressionally approved budget have been required to either make a construction contract award or to complete a project already under construction. From fiscal year (FY) 1983 through fiscal year 1989, there were a total of 250 active major projects either under design and/or construction. Of these, 60 projects incurred congressionally reportable cost overruns totaling $146.6 million (see Chart 1). [Congressional reprogramming notifications on cost overruns, which are normally funded from the Major Construction Working Reserve, are required when the funds needed exceed the smaller of $250,000 or 10 percent of a project's total cost.]

MAJOR CONSTRUCTION COST OVERRUNS
FY 1983 - FY 1989

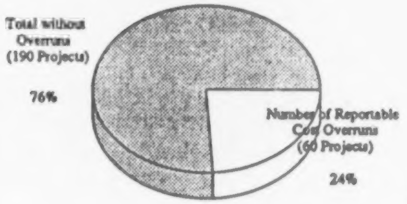
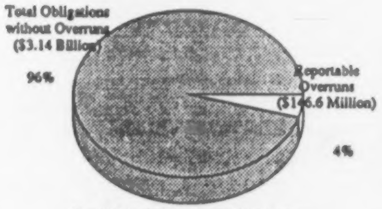


Chart 1

REPORTABLE OVERRUNS vs TOTAL OBLIGATIONS
FY 1983 - FY 1989



Total Major Obligations = $3.29 Billion

Chart 2

In addition, total obligations for the major construction program from FY 1983 through FY 1989 was $3.29 billion (see Chart 2). Also during this period, $587.9 million was returned to the Working Reserve from projects financially completed with costs below the available budget limit. Consequently, the net cost avoidance over that seven-year period has been $431.5 million (see Chart 3). This net cost avoidance has, in part, been utilized in the budget process to build other projects.

MAJOR CONSTRUCTION PROGRAM
FY 1983 - FY 1989
(In thousands)

FY	Cost Avoidance	Total Cost Overruns	Total Program Obligations
83	$213,658	($7,294)	$519,813
84	207,900	(8,572)	416,252
85	83,228	(11,846)	309,991
86	28,281	(18,159)	451,309
87	38,938	(29,522)	586,612
88	8,027	(25,988)	507,334
89	7,311	(55,004)	494,601
TOTALS:	$587,933	($156,385)	$3,285,912
Congressionally Reportable Overruns:		($146,608)	

Chart 3

The cost overruns experienced by VA can be categorized into predominantly two major categories: "Changes" and "Inaccurate Estimating." From FY 1983 through FY 1989, 62.2 percent of the cost overruns were due to "Changes," and 28.3 percent due to "Inaccurate Estimating." The remaining 9.5 percent were due to unforeseen site acquisition costs and construction claims.

DISCUSSION

1. Changes

Changes which add unexpected costs to a project can be divided into two types:

- **Client Requested** - Changes requested by the client, which in most cases is the Veterans Health Services and Research Administration (VHS&RA), are often needed to accommodate new technology or significant changes in the practice of medicine. These changes, when they are significant or when they occur during the latter stages of design or construction, often contribute to cost overruns.

  In the past, client requested changes were approved at several management levels within VA. In order to consolidate such approval authority without diminishing programmatic considerations, a Design Changes Review Board was established in FY 88. This Board is chaired by the Deputy Chief Medical Director and currently reviews all proposed major construction programmatic changes over $25,000. The creation of this Board has resulted in a substantial reduction in the number of such change requests.

  In the future, client requested changes in excess of $50,000 will be referred to the Assistant Secretary for Acquisition and Facilities for review and approval. This level of scrutiny should further communicate the intent to proceed with only essential changes.

- **Technical** - Technical changes include unforeseen project site conditions or design errors and omissions. Examples include unforeseen rock encountered during excavation or failure of the designer to specify sufficient electrical power to operate specified equipment. These types of changes also contribute to cost overruns when they are significant or when identified in the design or construction phase of the project.

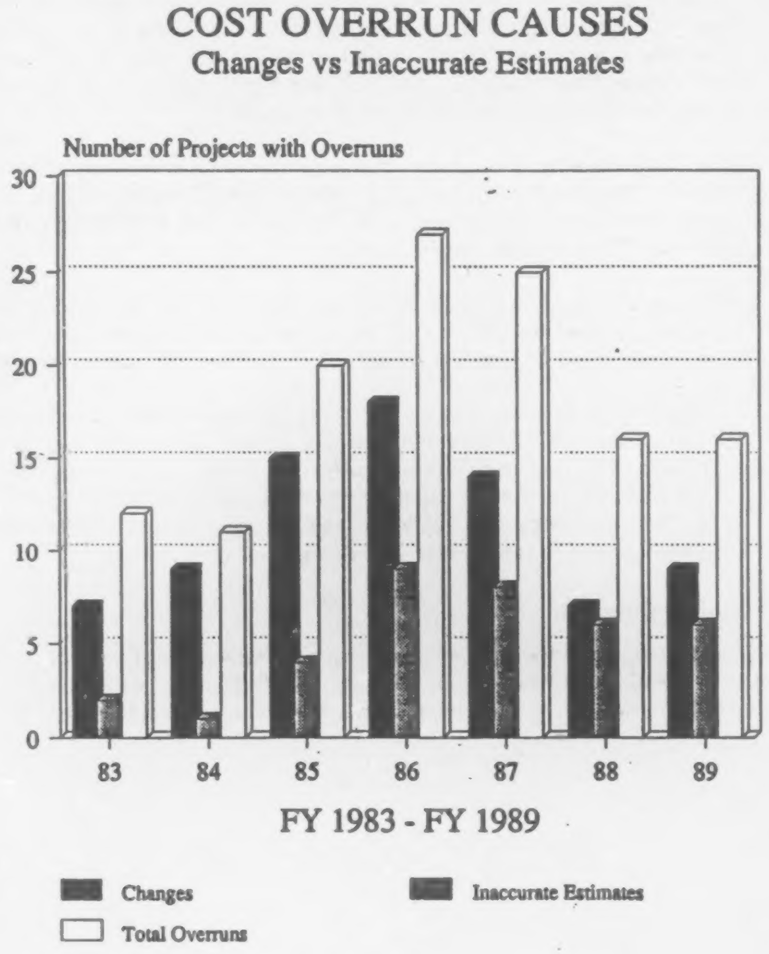
Chart 4 shows a trend of growth in the number of cost overruns due to construction changes from fiscal years 1983 to 1986. Several actions, in addition to those described above, have been taken that successfully reversed this trend. They include the following:

- Supervision: More aggressive supervision of (1) architect-engineers during project design and (2) contractors during construction to maintain projected and actual construction costs within approved budgets.

- Feedback: Continual review of VA master construction specifications to correct any deficiencies noted during project design reviews or actual construction. Quarterly updates of specifications are provided by VA to the National Institute of Building Sciences for inclusion in the collection of Federal agency construction specifications. These are published on a single compact optical disc (CD-ROM).

2. Inaccurate Estimating

Cost overruns (realized at the time of competitive bid openings or the conclusion of negotiations with SBA 8(a) contractors) reflect the difficulty in estimating the ultimate construction cost given the elapsed time from when a project is put into a



COST OVERRUN CAUSES
Changes vs Inaccurate Estimates

Chart 4

particular fiscal year budget and the anticipated date of construction contract award. For example, in September 1989, the project cost estimates for projects that will be funded as line items in the FY 1991 budget were finalized. These estimates represented economic forecasts of the project cost of capital, labor, materials and equipment projected to the midpoint of construction. In many cases, this estimating lead time is two to three years. The construction market is highly volatile. Market conditions can change from day-to-day. Consequently, construction cost estimates are clearly subject to the uncertain volatility associated with economic forecasts. Many of the cost overruns experienced during late FY 1988 and early FY 1989 reflect such miscalculations of the market from two to three years earlier.

To account for the recognized uncertainties of the construction market, industry-standard estimating allowances and techniques have been used in aggressively reviewing each and every project estimate. The Office of Facilities is currently reviewing VA's in-house estimating capability. The role of cost consultants, retained by the architect-engineer on each major project, will be studied and strengthened, if it can be done in a cost-effective manner.

VA instituted a policy to include bid alternates equivalent to approximately 10 percent of a project's net construction cost. Bid alternates are portions of the construction contract solicitation which allow flexibility to award within available funds. These alternates provide VA management with reasonable options to allow an award to be made even in the event of high bids. Previously, management's options were limited to a choice between cancellation of the project solicitation (involving project redesign and rebid) or a reprogramming request to permit a contract award at the high price. Well-developed bid alternates enhance management flexibility by presenting a range of options thereby reducing the frequency of incidents requiring requests for additional funding.

Shorter design and construction periods reduce the uncertainty in the economic forecasting time frame. Reduction in actual construction time is being accomplished through (1) an increased emphasis during project design on the optimal method to construct a given project, and (2) minimizing the number of individual project phases. Several past cost overruns have been directly attributable to excessive project phasing.

The total time frame of a project estimate can also be shortened by reducing some of the starts and stops inherent in the construction budgeting process. Time delays also occur due to gaps in time between the completion of initial congressional budget submissions, budget approvals and changes in budgets.

Reductions in construction time frames are also being pursued by means more commonly utilized in the private sector. VA is experimenting with alternative design and construction techniques, such as design-build, where one firm is contracted for the entire design and construction process. This technique is presently being used to provide modular patient care and support buildings at the Palo Alto Medical Center. This is an interim solution for the buildings damaged by the Loma Prieta Earthquake. Design-build is also being considered for other types of facilities, particularly parking garages and regional office buildings.

To ensure that the best qualified architect-engineer firms are hired to design VA facilities, the Office of Facilities has improved the screening and interview process. The methodology used to screen all applicant firms has been recently reviewed. A modification to the scoring was made to award increased credit to those firms that have provided past clients or are now providing VA with cost effective designs within budget limitations.

ADDITIONAL PROGRAM IMPROVEMENTS

- **Facility Development Plans (FDP)** - The FDP program identifies needs in an orderly and comprehensive manner. Completed FDPs will enhance the ability to define project scope earlier in the design process. FDPs facilitate user participation in defining the project and, thus, minimizes program changes during the design and construction stages.

- **Better Developed Early Designs** - The project cost estimate submitted as a line item in a particular fiscal year budget has been based on a completed preliminary plan design, in the future referred to by VA as design development. Design development plans are then followed by working drawings, in the future called construction documents, which involves the production of complete drawings, specifications and all documents necessary for bidding construction. Beginning in FY 1990, VA adopted this industry-standard approach to project design. This calls for design development to be approximately at a 35 percent working drawing level. At this point, client input should be complete, the building systems fairly well defined, and the final design more certain. The outcome should be better budget estimates and fewer cost overruns.

  Design development represents the architectural and engineering solution to VA's functional requirements as defined through the FDP, design program and schematic stages. Client input is substantial during each of these stages. The completion of design development is generally the point at which a formal cost estimate is prepared for inclusion in a fiscal year budget. It also represents the final stage of project definition. Therefore, client requested changes should be minimal beyond this point. Design development completed to 35 percent working drawings improves the quality of project definition with respect to both cost and scope, reduces the subsequent need for client requested changes and reduces the degree of and the elapsed time for reliance upon estimates of market, economic and inflationary conditions.

- **Alternative Construction Techniques** - VA is studying the use of construction management (with and without a guaranteed maximum price), along with furthering our efforts to implement techniques such as design-build and lease/purchase.

- **Oversight of Architect-Engineer (A/E) Contracts** - The standard VA contract signed by each A/E firm for the construction documents places a construction cost limit on the project to be designed by the A/E. VA is intensifying oversight in this area; continually monitoring the ongoing costs of the A/E's design. The standard contract requires the A/E, within specific guidelines, to redesign projects that exceed the cost limit at their expense to permit award within available funds.

- **Project Phasing and Improvements in Constructibility** - Complex project phasing invariably increases the cost of construction. Emphasis on simplifying client needs for multiple-project phases has been placed on the designing architect-engineer firms. Simplifying the particular construction requirements of a given design contributes to lower overall construction costs through better bids. Constructibility reviews are accomplished on all projects.

- **Value Engineering** - Value engineering is defined as the application of a range of engineering techniques to eliminate unnecessary effort while maintaining a project's overall function and quality. Formal value engineering reviews are made during design, and cost-sharing opportunities are offered to construction contractors during actual construction.

- **Equipment Coordination** - Improved coordination between major equipment deliveries and construction schedules will eliminate costly change orders to accommodate equipment that cannot fit into the originally designed and constructed spaces. The most significant improvements are in the area of radiology equipment installation. Equipment is specified as close as possible to completion of a project to provide clinicians with the latest technological innovations and yet provide the contractor time to adapt the site to accommodate the equipment for size, power, ventilation, etc. Under this initiative, high-technology areas are designed with a maximum of flexibility. Interior construction in these areas is completed after the equipment is procured.

- **Project Financial Monitoring** - There has been increased monitoring of ongoing major construction projects using the newly installed automated Contract Administration Management System (CAMS). This system tracks project accounts, change orders and supplemental agreements. This system will eventually be linked to every project site for the purposes of automated transmission of change order information through the microcomputer-based Resident Engineer Management System (REMS).

CONSTRUCTION - INSPECTOR GENERAL REPORT

SENATOR MIKULSKI: The most recent semiannual Inspector General Report (p. 1-11) found in its review at four medical centers that several planned construction projects should be canceled or reduced in scope, at an estimated cost savings of $16.7 million out of total project cost of $40.7 million. Did you agree with the IG's findings?

ANSWER: The Department of Veterans Affairs agrees with the IG's findings in the case of Boise, Idaho to cancel the minor construction project for additional animal research space. The VA further concurs with cancellation of the minor project at Columbia, Missouri for additional administrative and clinical space. As for the IG's findings at the medical centers at Chillicothe and Cincinnati, Ohio, we believe it is premature to determine if the projects at these facilities should be reduced or canceled. Until we have determined the exact deficiencies to be corrected and a strategy with a cost estimate to accomplish the corrections, we cannot concur in these two recommendations at this time.

SENATOR MIKULSKI: What implications do the IG's findings have for the changes you are beginning to make in the construction program?

ANSWER: The Facility Development Plans (FDP) which we are initiating at all medical centers will provide the necessary planning base and corrective strategies to eliminate a number of projects such as Boise and Columbia, that get into the planning cycle without the necessary justification to support their funding.

SENATOR MIKULSKI: How do you plan to amend the facility planning process to incorporate the IG's recommendations?

ANSWER: The facility planning process has been amended with the initiation of the FDP. This process provides a systemwide approach to establishing a comprehensive plan for the physical development of a VA medical facility. The process incorporates national, regional and local goals, objectives, priorities and resources. This program will provide consistent, comprehensive and integrated planning data to department managers for enhanced decision-making; leading to a more progressive approach to distributing scarce VA capital improvements resources. The FDP will provide the IG with a tool to better review the facility planning process and make better informed recommendations and potential cost savings.

LOCH RAVEN

SENATOR MIKULSKI: In January 1990 VA proposed a plan for the Loch Raven VA medical center in Baltimore. VA proposed a public-private venture in which a private developer, selected on a competitive basis, would lease the facility, renovate it for nursing home use, and lease back to VA at a nominal rate, nursing home beds for veterans. What is the status of this proposed plan?

ANSWER: The Department is presently in a negotiation phase for development consultant services for the proposed redevelopment of Loch Raven. Negotiations are expected to be concluded by early June, slightly ahead of the original development schedule (see attached time-line).

SENATOR MIKULSKI: What needs to happen next for the Loch Raven plan to go forward, and what is the schedule?

ANSWER: The development consultant will assist VA in hosting an industry forum and evaluating options. Assuming the study results are positive, a Request for Proposals (RFP) will be developed to solicit the redevelopment team (see attached time-line).

SENATOR MIKULSKI: Is legislation needed?

ANSWER: Yes. Legislation required for implementation of the Loch Raven redevelopment has been proposed by the Department and recently introduced as Senate Bill S. 2532, "Act for the Use and Disposition of Designated VA Facilities."

SENATOR MIKULSKI: What has been the level of interest among potential developers in VA's proposed solution to Loch Raven?

ANSWER: VA has received a number of direct inquiries from potential developers, contractors and healthcare providers with requests for meetings and additional information. Interested parties have represented national, as well as local healthcare providers.

SENATOR MIKULSKI: When will potential developers be given a walking tour of Loch Raven?

ANSWER: An industry forum, to include a full walking tour of Loch Raven, is scheduled to be conducted within 90 days after the development consultant begins work (see attached time-line).

LOCH RAVEN TIME-LINE

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                           1990     1990     1990     1990     1991     1991     1991     1991     1992     1992     1993
                          Jan-Mar  Apr-Jun  Jul-Sep  Oct-Dec  Jan-Mar  Apr-Jun  Jul-Sep  Oct-Dec  Jan-Jun  Jul-Dec  Jan-Dec

FINANCIAL/MARKET CONSULTANT
  Finalize RFP                |---|
  Define VA needs
    (W/VHS&RA, VBA etc.)      |--------|
  Issue Consultant RFP            |--|
  Select Consultant                 |---|
  Conduct Analysis w/consultant          |----------------------------------|
  Develop Industry Forum                        |----|
  Industry Forum                                     |---|
  Draft Developer RFP                                     |-------|
  Issue Developer RFP                                              |--|
  Select Developer                                                      |---|

CITY of BALTIMORE
  Brief City Staff                          |---|
  Develop MOU w/City                            |--------------|
  Coordinate Public Forum                                |----|
  City Council Approval of MOU                                 |-----|

STATE of MARYLAND (Veterans Commission & VSO's)
  Initiate Contact/Brief                    |---|
  Coordinate Required Actions                   |------------------------------------------------------------------|

PRIVATE DEVELOPER
  Negotiate Final Development Agreement                                             |---|
  Assist Developer in CON/Financing as Required                                          |--------|
  Monitor Construction Activities                                                                   |---------------------|
```

LOAN GUARANTY PROGRAM/DOWNPAYMENT PROPOSAL

SENATOR MIKULSKI: VA's budget proposes legislation to require veterans to make a 4% downpayment on home loans. Do you have any evidence that the proposed home loan downpayment will reduce the number of foreclosures?

ANSWER: In a study conducted by the Mortgage Bankers Association Economics Department it was found that there was a highly significant statistical relationship between the Loan-to-Value ratio and conventional mortgage default rates -- as the Loan-to-Value ratio rises the default rates rise as well. VA statistics result in a similar conclusion, i.e., the VA foreclosure rate rises as the Loan-to-Value ratio rises.

SENATOR MIKULSKI: For many first time homebuyers, closing costs represent a major obstacle to homeownership. How many fewer vets who are first-time home buyers will be able to participate in the program if the down payment requirement is enacted?

ANSWER: The proposed 4 percent downpayment requirement may prevent some veterans who are first-time homebuyers from participating in the loan guaranty program. It is possible that some veteran borrowers who have marginal incomes and little or no savings would be precluded from immediately purchasing a home. The down payment required on an average loan of $80,000 would be $2,200 or 2.75 percent. We believe veterans who do not have sufficient liquid assets could delay their purchase while saving a little more or consider less expensive housing opportunities.

LOAN GUARANTY/FUNDING FEE PROPOSAL

SENATOR MIKULSKI: VA is planning to increase the funding fee on veterans home loans from 1.25% to 1.75%. Why was the 1.75% figure selected? Has the administrative cost of processing loans increased? Will the fee cover projected losses to the program? Is the amount selected needed to make the fund actuarially sound?

ANSWER: VA proposes to increase the funding fee charged to veterans obtaining home loans under the Guaranteed and Indemnity Fund because our projections indicate that the fund will need an appropriation of $218.4 million by FY 1995. This is because the fee structure is inadequate to support this new fund over the long term. We estimate that the 1.75 percent fee will support the GIF without the need for appropriations through FY 2000.

This proposal is not related to VA's administrative costs in connection with loan originations. These costs are provided for in the budget for General Operating Expenses.

LOAN GUARANTY/ALTERNATIVES TO FORECLOSURE

SENATOR MIKULSKI: GAO recommended VA use a cost analysis model to analyze loan termination alternatives in the loan guaranty program. According to GAO, VA stated it didn't find any benefit that would justify the extra paperwork and administrative burden resulting from adopting the cost analysis model on a nationwide basis.

Without such a cost analysis model, what assurance does VA have that its loan representatives will consider or compare all cost factors when analyzing loan termination alternatives?

ANSWER: A trained and experienced Loan Service Representative understands the cost factors involved in loan termination alternatives without recourse to use of a computer model to demonstrate numerical estimates of these alternatives. VA has attempted to assure that Loan Service Representatives do consider effective alternatives to foreclosure through two week-long training sessions for Loan Service and Claims technicians and one such session for Section Chiefs in FY 1989. In addition, alternatives to foreclosure were discussed at length during our FY 1990 Loan Guaranty Officers training conference. As a follow-up, VA's internal quality and compliance standards require review of a sample of terminated GI loans to include the question: "Among alternative methods of liquidation which were available, including acceptance of a voluntary deed if obtainable, was the method used to terminate the loan the most advantageous to the Government". We therefore believe that adequate management guidance and tools exist to provide assurance that the financial interest of the Government is taken into account in considering alternatives to foreclosure. An additional analysis and file documentation requirement would not provide greater assurance that such actions are taken.

SENATOR MIKULSKI: What is your estimate of the cost of implementing and operating such a model? Do you have any evidence that costs outweigh benefits of using such analysis?

ANSWER: During the last twelve months 169,872 loan defaults were reported to VA. Assuming that costs of disseminating the model and related instructions are negligible, and assuming the model were used in every case and that its application required an average time investment of 20 minutes per case for data input and file documentation by a GS-9 step 5 at $17.44 per hour (including benefits and overhead), use of the model would require 56,624 manhours at a cost of $987,632. There is no evidence to indicate that use of the model would provide any benefits to outweigh these costs. If use of the model were required without increases in staffing there would be no costs of operation; however, the amount of time spent in personal supplemental servicing of delinquent GI loans would be reduced by 56,624 manhours.

SENATOR MIKULSKI: Have any field offices adopted a cost analysis model to determine least costly method of terminating loans? What has been the result in offices that have adopted such a model?

ANSWER: We are not familiar with any field stations which have adopted such a model. We understand GAO auditors left their model with several field stations they visited. None of these stations, however, found sufficient benefit to implement it on a routine basis.

MANUFACTURED HOME LOAN PROGRAM

SENATOR MIKULSKI: I note you plan to terminate the manufactured home loan program. On average, how many veterans apply for a loan under this program each year?

ANSWER: The following describes the number of manufactured home loan applications for the past several fiscal years:

		Total Applications
	FY 1988	1,820
	1989	733
(Through March)	1990	274

SENATOR MIKULSKI: What was the default rate in 1989?

ANSWER: Cumulative through FY 1989, 28.55 percent of manufactured home loans guaranteed have been foreclosed as compared to 5.04 percent for home loans.

SENATOR MIKULSKI: How much do you estimate the termination of this program will save VA in FY 91?

ANSWER: We project savings of $300,000 in FY 1991 if this program were eliminated. Over five fiscal years (FY 1991-95) the savings are estimated to be $19.1 million.

SERVICE DELIVERY

SENATOR MIKULSKI: Your budget request for ADP Systems Management is $69.2 million, an increase of about $23 million over FY 90. The Veterans Benefits Administration currently has work processes which are not fully automated. Your 12-Point Modernization Plan will provide for the automation of all manual processes that prove feasible and cost-beneficial. How much time will automation of all currently unautomated or partially automated processes save in the length of processing benefits — hours, days, or weeks?

ANSWER: At this time, it is not possible for us to provide definitive estimates of the time savings that will result from VBA's automation of its manual processes through modernization. There is potential for time savings through automation in a number of areas. Automation of these processes could translate into time savings of hours, days, or even weeks in some cases.

Several features of the modernized system will have positive impacts on timeliness. For example, unlike the current Target system, the modernized environment will feature on-line update of compensation and pension master records. This will provide better and more timely information in service to veterans and processing of claims. This on-line process will, for example, eliminate delays which now occur when award transactions fail to meet update criteria and must be recycled before any payment can be authorized.

The modernized system will also provide automated support for the front-end claims development process (now totally manual), thereby reducing the time it takes to get the claim into the hands of an adjudicator. As detailed analyses of workflow occur, we anticipate numerous opportunities to use electronic transmission of data to eliminate paper flows. Experience in one of the short-term initiatives, Automated Medical Information Exchange (AIME), has demonstrated reduced turnaround time on examination requests of more than ten days.

Modernization will also provide significant opportunities to improve interfaces with the Department of Treasury to result in more timely and accurate payments to veterans and their dependents and, thereby, reduce VA overpayments and the need for subsequent debt collection actions as well. Finally, the availability of current information simultaneously to various offices - through both on-line update of the master record and electronic imaging capability for claims folders - will permit concurrent review and action in various work processes now done sequentially. This will enable improved timeliness in claims processing.

INFORMATION MANAGEMENT

According to GAO, VA does not have a structured approach to systematically plan, prioritize, and implement all aspects of its near and long-term information needs. Thus, VA cannot effectively evaluate its own performance and fix accountability.

SENATOR MIKULSKI: Does VA plan to implement the recently approved strategic information resources management planning process and perform a department-wide information analysis to determine information resources needs and prioritize initiatives? Will VA begin implementing this process in fiscal year 1991? What progress do you anticipate during FY 91?

ANSWER: On October 6, 1989, the Secretary of Veterans Affairs approved the Framework for a Strategic IRM Planning, Programming and Budgeting Process. Since that time VA has begun implementing the process. In January, VA published its first Strategic IRM plan and is currently developing the VA's IRM program. As experience is gained with the process it will be modified to more effectively identify and prioritize the information resource needs of the VA. A part of the process includes a departmentwide information analysis. The first phase of that analysis, determining the information technology resources has begun. In April of this year, VA established a Strategic Management Process. Because IRM is an important part of the overall management of the VA, future IRM plans and programs will be integrated within the overall context of VA program goals and objectives.

SENATOR MIKULSKI: Does VA plan to assess what Department-wide information resources management policies need to be developed and implemented to foster data sharing? If not, why not?

ANSWER: The Office of Information Resources Management (OIRM) has implemented a Departmentwide data administration program, with objectives to plan, document, manage, and control the data structures underlying the information resources of the Department. The data management guidelines and metadata structures which will be provided as a part of this program will facilitate efforts to reduce unnecessary redundancy in data collection, storage, processing, and reporting, and promote the sharing, integration, and tracking of data and information throughout VA.

The Office of Information Resources Policies (OIRP) is currently reviewing all VA policy pertaining to information resources management to determine where revisions are necessary, or the development and implementation of new policy is required. This effort will include the revision of current policy and/or the development of new policy to promote data sharing throughout VA.

Additionally, OIRP is initiating the development of a data architecture to identify an overall data classification framework and a documentation methodology for Departmentwide data. The data architecture supports the Department's goals for achieving data sharing and systems integration. While independent development efforts are ongoing in the administrations and staff offices, a comprehensive Department data architecture will enable the VA to realize the data-driven efficiencies offered by today's technologies, and increase data sharing and systems integration throughout VA.

A list of proposed abbreviations and acronyms, as well as Department data definitions, is currently being documented by OIRP. Upon completion and coordination of the proposed products (draft) above, each will be distributed to the administrations and staff offices for review and approval.

In the context of our commitment to full and open competition, effective data sharing requires an open systems computing environment. To this end, the Department has endorsed the Applications Portability Profile (APP), developed by the National Institute of Standards and Technology (NIST). The APP is a constellation of Federal, national and international ADP and telecommunications standards chosen to provide interconnectivity at all levels of technology, reduce vendor dependence, decrease costs, improve technological currency, and encourage competition in the acquisition process. VA has employed APP standards in major systems such as the Integrated Data Communications Utility and the Nationwide Office Automation for VA.

SENATOR MIKULSKI Do you plan to implement a Department-wide management information system? If not, why not? What other initiatives have you begun to facilitate information sharing throughout the Department? How can you ensure that the management information system or these other projects will readily provide information needed by VA's top management to monitor programs effectively?

ANSWER: Our long-range goal is to provide access to Department-wide information by top managers, program officials, and analysts at all levels by developing executive information systems (EIS). These systems will be incorporated into the application systems for all major initiatives of the Department such as the Financial Management System, the Integrated Supply Management Information System, and the redesign of the Personnel and Accounting Integrated Data system. These EIS systems will provide critical success factors, planning data, and operational data in an easy to use manner to support effective and timely decision-making. EIS will be developed using a prototype approach in order to build acceptance, demonstrate their value, and acquire more users. EIS will ultimately provide access to virtually all of the data in VA systems for indepth analysis and also present predetermined variables in pre-programmed formats for easy use by senior managers.

Other initiatives that will facilitate information sharing include the previously mentioned data administration program, a strategic information resources architecture, strengthened policies and standards, and an open systems computing environment. Together, the EIS and other initiatives will ultimately provide a Department-wide management information system that is easily accessible and supports informed decision-making with timely and accurate information.

MEMORANDUM FROM SECRETARY DERWINSKI

Date: OCT 6 1989

From The Secretary (00)

Subj Framework for A Strategic IRM Planning, Programming and Budgeting Process

To Administration Heads, Deputy Assistant Secretaries and Other Key Officials

1. I have approved the attached conceptual Framework for a Strategic IRM Planning, Programming and Budgeting Process for the Department. I believe that this process is critical to the effective management and use of our information resources in support of the overall VA mission, goals and objectives.

2. I am establishing in this process the Strategic Information Resources Management Executive Council, which I will chair, and the Senior Information Resources Management Steering Committee, which will be chaired by the Assistant Secretary for Information Resources Management. These two top level groups will oversee the development and implementation of our Strategic IRM Process.

3. The Assistant Secretary for Information Resources Management will be responsible for the Strategic IRM Process and for ensuring that all IRM activities are addressed in this process and will work in conjunction with the Executive Council and Steering Committee to refine/enhance this process. I have asked the Assistant Secretary for Information Resources Management to work closely with the Assistant Secretary for Finance and Planning to ensure that the elements of this process are fully coordinated with the Department's overall budget formulation process.

4. I believe that by working together through this process, we can improve the management of our information resources and ultimately provide better service to our veterans and their beneficiaries.

Edward J. Derwinski

FRAMEWORK FOR A STRATEGIC IRM PLANNING, PROGRAMMING AND BUDGETING PROCESS

OVERVIEW

This policy paper presents the Framework for a Strategic Information Resources Management (IRM) planning, programming and budgeting process in the Department of Veterans Affairs (VA).

INTRODUCTION

There are a number of external requirements which necessitate the implementation of IRM strategic planning in the VA. Major among them are the Paperwork Reduction Reauthorization Act of 1986 (P.L. 99-500), which requires that agencies develop a 5-year IRM plan. In addition, the Office of Management and Budget (OMB) issues a bulletin annually that provides guidance and instructions for the preparation and submission of information on strategic plans for information systems and technology. OMB Circular A-130, "Management of Federal Information Resources", states that agencies shall establish "multiyear strategic planning processes for acquiring and operating information technology to satisfy program mission needs, reflect budget constraints, and form the basis for their budget requests." OMB Circular A-11 establishes a foundation for preparing information technology budget requests.

In order to satisfy these external requirements and meet its own IRM strategic planning needs, the VA has developed a Strategic IRM Process to ensure that the VA's IRM mission, goals and objectives are accurately identified and effectively implemented in support of the VA's overall mission, goals and objectives.

IRM strategic planning, programming and budgeting will enhance management control of VA information resources, and will provide for resolution of IRM policy and program issues prior to construction of the VA IRM budget. The IRM Strategic Plan establishes the framework of the Department's IRM activities and will provide the guidance for the development of an IRM Strategic Program. The IRM Strategic Program will define program priorities, schedules, milestones, resource requirements, hardware, software, telecommunications requirements and return on investment for all IRM activities and initiatives in the Department.

PURPOSE OF A VA STRATEGIC IRM PROCESS

The purpose of the VA's Strategic IRM Process is to enhance management of information resources by strengthening and integrating our IRM planning, programming and budgeting processes. IRM programs will be developed in support of IRM goals and objectives that are defined in the IRM Strategic Plan. The major objectives of the Strategic IRM Process are to ensure that the VA's information resources will improve information resources:

- planning and allocation;
- coordination and communication;
- service delivery;
- program management; and
- productivity.

THE STRATEGIC IRM PROCESS

The Strategic IRM Process is a structured, yet flexible process that integrates the activities necessary to define IRM missions, goals and objectives and develop IRM programs for each Department organization to ensure that strategic IRM goals and objectives are attained. The complete IRM planning, programming and budget cycle can be viewed in four phases which complement and build on the Department's program and budget formulation activities. An overview of the relationship of the phases of the Strategic IRM Process is presented on page 3. A detailed schedule of the major activities of the process is included at Appendix A.

IRM Strategic Plan

The first phase of the Strategic IRM Process will provide the framework within which each of the other phases will be accomplished and will provide for the development of the VA's IRM Strategic Plan. The tasks required and timeframes for completing those tasks for developing the IRM Strategic Plan are set out in Appendix B. Development of the IRM Strategic Plan will be initiated through issuance of the Secretary's Strategic IRM Guidance. This top level guidance will ensure that Department elements have the proper framework within which to accomplish their IRM strategic planning activities.

The IRM Strategic Plan builds on Department missions, goals and objectives; guides the development of the IRM policies and directions for the Department; and outlines IRM strategies necessary to implement the plan. The IRM Strategic Plan will describe in broad terms where the Department is, where it is going and how it intends to get there with respect to IRM. To adequately portray an overall mission for VA's IRM activities, the IRM Strategic Plan will not be constrained by a time horizon and will likely focus beyond the traditional 5-year planning horizon. Once in place, the IRM Strategic Plan will serve as a key management tool and will support the resource allocation process in the VA by enabling Department management to utilize scarce resources to achieve goals and objectives laid out in the plan. IRM strategic planning activities will take place between October and December each year and will culminate in the issuance of the VA's IRM Strategic Plan. The IRM Strategic Plan will include the following:

a. Executive Summary;

b. Introduction containing background, purpose and objectives of the plan, current internal and external environment;

c. IRM mission, goals, objectives and organization; and

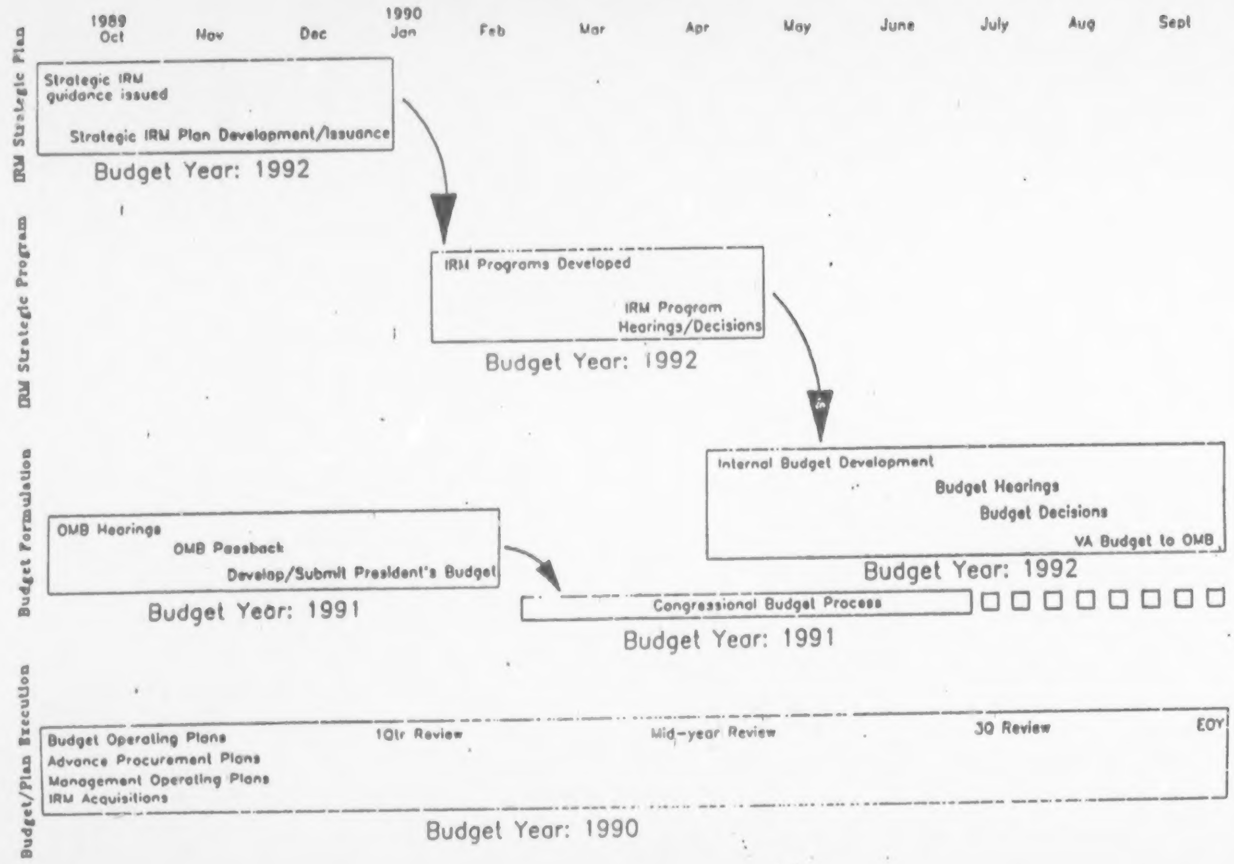
d. Strategies to accomplish IRM goals, objectives and critical success factors.

Administration and Office IRM Strategic Plans will be developed and incorporated into the Department's overall IRM Strategic Plan.

IRM Strategic Program

The second phase of the Strategic IRM Process will occur from January through April. The IRM Strategic Program phase will be initiated through the issuance of a call to all VA organizations for development of IRM programs. The IRM program call, likely a modification of the current Call for Information Systems Plans, will outline the specific requirements for program content

Strategic IRM Process


1989
Oct
Nov
Dec
1990
Jan
Feb
Mar
Apr
May
June
July
Aug
Sept
IRM Strategic Plan
Strategic IRM guidance issued
Strategic IRM Plan Development/Issuance
Budget Year: 1992
IRM Strategic Program
IRM Programs Developed
IRM Program Hearings/Decisions
Budget Year: 1992
Budget Formulation
Internal Budget Development
Budget Hearings
Budget Decisions
VA Budget to OMB
Budget Year: 1992
OMB Hearings
OMB Passback
Develop/Submit President's Budget
Budget Year: 1991
Congressional Budget Process
Budget Year: 1991
Budget/Plan Execution
Budget Operating Plans
Advance Procurement Plans
Management Operating Plans
IRM Acquisitions
1Qtr Review
Mid-year Review
3Q Review
EOY
Budget Year: 1990

and coverage. The IRM Strategic Program will detail the IRM activities and initiatives in each organization necessary to support the strategies outlined in the IRM Strategic Plan. The IRM Strategic Program will address a 5-year planning horizon to coincide with the budget horizon defined by OMB. The IRM Strategic Program will include schedules and milestones, resources required, including personnel, hardware, software and telecommunications, and the anticipated return on investment for each initiative. The IRM Strategic Program will be submitted to the Senior IRM Steering Committee for review and approval of IRM programs, projects and resource levels. The results of this programming activity will then serve as the input for development of the budget for IRM-related activities and initiatives. The Assistant Secretary for Information Resources Management will work closely with the Assistant Secretary for Finance and Planning to ensure that the IRM budget requirements are fully coordinated with the Department's overall budget formulation process to avoid overlapping and conflicting budget formulation and review processes.

IRM Strategic Budget Formulation

The third phase of the Strategic IRM Process involves formulation of the Department's IRM Strategic Budget during the period May through August.. This is the same schedule presently in force in the Department for budget formulation. During this phase, the Assistant Secretary for Information Resources Management will prepare the Department's response to the annual OMB Information Systems and Technology Planning Bulletin and will work closely with the Assistant Secretary for Finance and Planning to ensure that only approved information resource programming levels are included in the Department's budget. The remainder of the budget formulation phase includes development of the President's budget (OMB hearings, OMB passback, adjustment of Department budget and incorporation into President's budget) and the Congressional budget process. The Congressional budget process starts each January with submission of the President's budget and is completed when all appropriations are enacted prior to the start of each fiscal year. Throughout this critical phase, the Assistant Secretary for Information Resources Management and the Senior IRM Steering Committee will ensure that IRM justifications support budget requests and that the Department's most critical IRM priorities are funded first.

Budget/Plan Execution

The fourth phase of the Strategic IRM Process is the Budget/Plan execution phase, which is primarily a budget and fiscal resource tracking responsibility and addresses a single fiscal year only. However, actions that occur during this phase may affect IRM plans and programs. As such, changes in budget operating plans, reprogramming decisions, supplemental appropriations, budget recision, or other program needs must be reflected in information resources programs as they are updated. In addition to budget operating plans, organizations must prepare Advance Procurement Plans (APPs) to comply with the requirements of the Competition in Contracting Act of 1984. To ensure proper linkage with related management processes, the VA requires that APPs be consistent with management and budget operating plans and that organizations report information resources-related procurements on a form separate from all other procurements. This approach to APPs permits an effective analysis of planned procurements against approved Information Resources Management Programs (previously Information Systems Plans) and is a crucial precursor to the formal IRM acquisition approval process, which is the final step prior to entering the procurement cycle. During the execution phase, the Assistant Secretary for Information Resources Management and the Senior IRM Steering Committee will monitor execution of approved IRM Programs. The Senior IRM Steering Committee will advise the Strategic IRM Executive Council regarding changes in IRM funding, priorities and project schedules to ensure that the VA's IRM resources are applied to the most critical activities.

STRATEGIC IRM PROCESS MANAGEMENT STRUCTURE

A top-down, bottom-up collaborative approach will be used at each stage of the Strategic IRM Process. While guidance and direction will emanate from the highest level managers down through the organization, the approach will also stress obtaining and responding to information requirements of the line employees. Individuals from both VA's IRM and program community will be involved in this Strategic IRM Process, composing several different groups that will be charged with responsibility for developing and overseeing the processes associated with producing an IRM strategic plan, program and budget. These groups will likewise be interacting with outside IRM sources (GSA, DoD, NARA, etc.) on the impact of VA's IRM activities on their operations. Three organizational levels within the VA form the groups responsible for the Strategic IRM Process. They are the Strategic IRM Executive Council, the Senior IRM Steering Committee and Working Groups and Task Forces. The relationship of the groups is outlined on page 6 and each is described below.

Strategic IRM Executive Council: The Strategic IRM Executive Council is chaired by the Secretary of Veterans Affairs and is comprised of the following members:

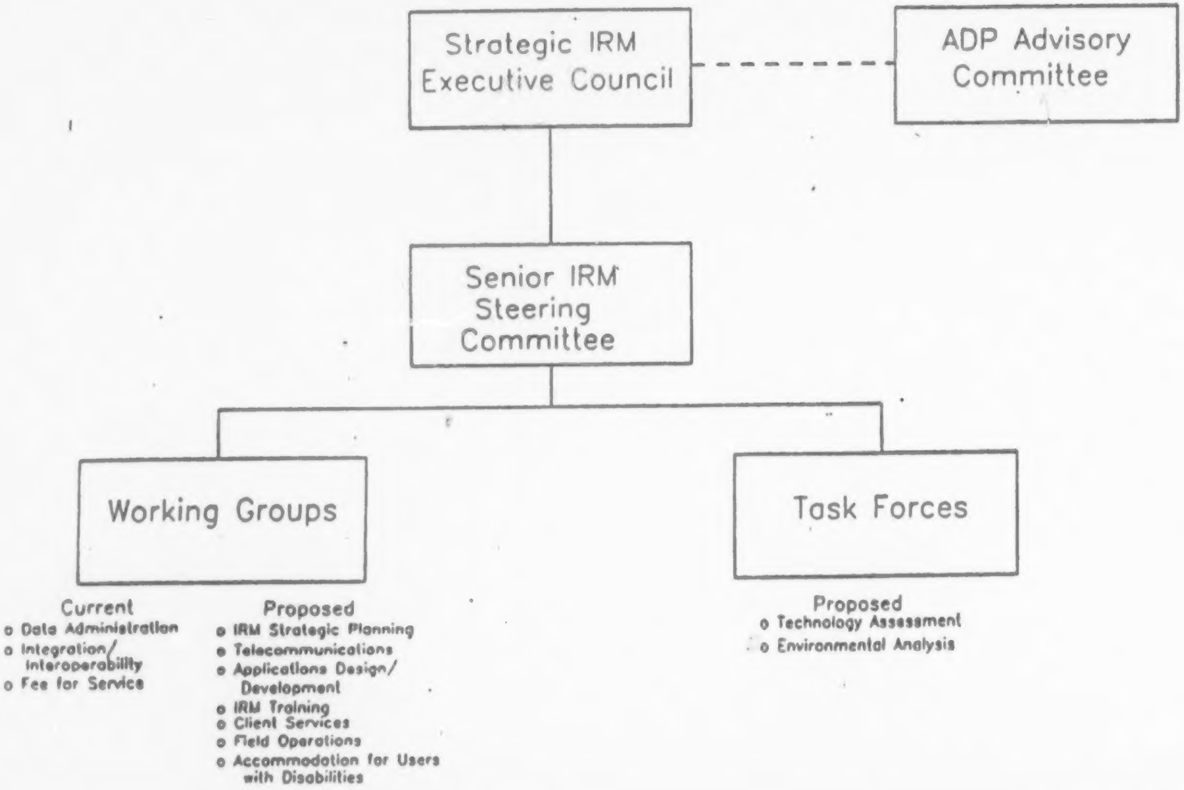
The Deputy Secretary
Chief Medical Director
Chief Benefits Director
Director, National Cemetery System
General Counsel
Assistant Secretary for Finance and Planning
Assistant Secretary for Human Resources and Administration
Assistant Secretary for Information Resources Management
Assistant Secretary for Veterans Liaison and Program Coordination
Assistant Secretary for Acquisition and Facilities
Assistant Secretary for Congressional and Public Affairs

The Assistant Secretary for Information Resources Management is the Executive Secretary of the Council.

The Strategic IRM Executive Council is responsible for approving the Department-wide IRM Strategic Plan and providing high level guidance and oversight of the Strategic IRM Process, as well as:

- approving the Department IRM Strategic Plan;
- providing direction and guidance on the IRM Strategic Plan, Program and Budget;
- providing general direction and guidance to, and receiving recommendations from, the Advisory Committee on Automated Data Processing Systems;

VA IRM Strategic Planning Structure



Strategic IRM Executive Council

ADP Advisory Committee

Senior IRM Steering Committee

Working Groups

Current
- o Data Administration
- o Integration/ Interoperability
- o Fee for Service

Proposed
- o IRM Strategic Planning
- o Telecommunications
- o Applications Design/ Development
- o IRM Training
- o Client Services
- o Field Operations
- o Accommodation for Users with Disabilities

Task Forces

Proposed
- o Technology Assessment
- o Environmental Analysis

- determining the Department's IRM resource priorities;
- overseeing the activities of the Senior IRM Steering Committee;
- ensuring that Department-wide missions, goals and objectives are incorporated in the IRM Strategic Plan;
- determining that Administration and Office plans are sufficiently comprehensive and complete and are not redundant or overlapping;
- providing final decision on cross-organizational IRM strategic issues;
- ensuring that the Department-wide IRM Strategic Plan, Program and Budget are completed on schedule; and

The Strategic IRM Executive Council will hold meetings at the call of the Chair. The meetings should generally coincide with critical decision points of the Department-wide Strategic IRM Process. The Council will direct the activities of the Senior IRM Steering Committee and receive input from, and provide guidance on, issues raised by the Committee. The Council will review and approve/disapprove requests from the Senior IRM Steering Committee for additional resources to implement identified IRM priorities. It will also provide final determination on cross-organizational issues submitted for consideration by the Senior IRM Steering Committee.

Senior IRM Steering Committee: The Senior IRM Steering Committee is chaired by the Assistant Secretary for Information Resources Management and is comprised of the following members:

Senior IRM Official designated by:
  Chief Medical Director
  Chief Benefits Director
  Director, National Cemetery System
  General Counsel
  Assistant Secretary for Finance and Planning
  Assistant Secretary for Acquisition and Facilities
  Assistant Secretary for Human Resources and Administration
  Assistant Secretary for Veterans Liaison and Program Coordination
  Assistant Secretary for Congressional and Public Affairs
Deputy Assistant Secretary for Information Resources Operations
Deputy Assistant Secretary for Information Resources Plans and Policies

The Deputy Assistant Secretary for Information Resources Plans and Policies serves as the Executive Secretary of the Senior IRM Steering Committee.

The Senior IRM Steering Committee is established by the Secretary of Veterans Affairs as a permanent body to provide advice and consultation to the Strategic IRM Executive Council on all aspects of the Department's IRM Strategic Plan, Program and Budget, and to oversee and provide guidance on the initiatives and activities of the IRM Working Groups and Task Forces. The Senior IRM Steering Committee replaces the Systems Integration Review Board. Responsibilities of the Senior IRM Steering Committee include:

- Reviewing the Department's IRM Strategic Plan, Program and Budget to ensure conformance with policy guidance from the Executive Council;
- recommending IRM resource priorities to the Executive Council;
- resolving cross-organizational IRM issues;

- overseeing and providing direction for planning Department-wide conferences on IRM Strategic Planning and Programming; and

The Senior IRM Steering Committee will hold meetings, which coincide with the Department's Strategic IRM Process, to review plans and address and/or resolve pertinent issues raised by the Executive Council or the Working Groups or Task Forces. It may hold additional meetings at the call of the Chair. The Committee will request additional resources needed to implement identified IRM priorities of the VA IRM Strategic Plan. It will establish (or abolish) Working Groups and Task Forces relating to IRM issues, policies, procedures or priorities, and will initiate decision papers to the Executive Council for resolution of cross-organizational IRM issues, if the issues cannot be resolved by the Senior IRM Steering Committee.

IRM Working Group(s) and Task Forces: A number of Working Groups and Task Forces will be established to provide focus on specific IRM-related issues and to perform specific IRM-related analytic, research or problem-solving tasks. Working Groups will address,long term and recurring issues. Task Forces will be created to address issues that are relatively short term in nature. Both the Working Groups and the Task Forces are responsible for performing tasks as assigned or designated by the Assistant Secretary for Information Resources or the Senior IRM Steering Committee. Initially, the three existing Working Groups under the Systems Integration Review Board that consider issues involving Data Administration, Integration and Interoperability and Fee for Service will be chartered under this new structure. In the future, consideration will be given to establishing Working Groups or Task Forces in such areas as:

- IRM Strategic Planning
- Telecommunications;
- Applications Design and Development;
- IRM Training;
- Client Services;
- Field Operations;
- Accommodation for users with disabilities;
- Technology Assessment; and
- Environmental Analysis

This list is not all-inclusive and will be modified by the Senior IRM Steering Committee as necessary.

Appendix A: Strategic IRM Process

Month/Year	VA Budget Planning	Strategic IRM Process
October 1989	OMB hearings on VA FY 1991 budget proposal	Strategic IRM guidance issued by the Secretary of Veterans Affairs
		Issue VA IRM Strategic Framework for FY 1992+
November 1989	OMB passback on VA FY 1991 budget proposal	VA organizations develop individual IRM strategic plans for FY 1992+
		VA organizations submit IRM plans to A/S IRM for review
December 1989	VA organizations prepare President's FY 1991 Budget based on President's Budget Year decisions	VA organizations update FY 1991 ISPs to reflect President's FY 91 Budget Year decisions
		VA organizations prepare OMB Budget Exhibits 43A (Obligations) and 43B (Major Acquisitions) to reflect President's FY 91 Budget Year decisions
		Publish final VA IRM Strategic plan for FY 1992+
January 1990	President's FY 1991 Budget submitted to Congress	Publish FY 1991 Information Systems Plan in support of President's budget
	1st quarter FY 1990 operating plan review	Call for FY 1992 IRM Programs issued
March 1990		VA organizations submit FY 1992 IRM Programs to the AS/IRM
		AS/IRM analysis of IRM programs
April 1990	Call for FY 1992 Budget Estimates issued	IRM program hearings
	Mid-year FY 1990 operating plan review	IRM program and resource decisions issued
May 1990	Department and Staff Offices submit FY 1992 Budget Estimates	VA Information Systems and Technology Plans submitted to OMB (e.g.,Bulletin 88-11)
June 1990	Analysis of Budget and Program Plans	
July 1990	Deputy Secretary conducts internal hearings based on Controller's analysis of Budget Estimates	
	3rd quarter FY 1990 operating plan review	
August 1990	VA organizations prepare FY 1992 OMB budget submission	VA organizations prepare OMB Budget Exhibit 43C (Cost/Benefit analysis) for major IT systems initiatives and OMB Budget Exhibit 41C for financial systems for FY 1992
	Call for FY 1991 Budget & Program Operating Plans	
September 1990	VA organizations submit FY 1991 Budget & Program Operating Plans	

Appendix A: Strategic IRM Process (continued)

Month/Year	VA Budget Planning	Strategic IRM Process
October 1990	OMB hearings on VA FY 1992 budget proposal	Strategic IRM guidance issued by the Secretary for Veterans Affairs
	End-of-year FY 1990 operating plan review	Issue VA IRM Strategic Framework for FY 1993+
November 1990	OMB passback on VA FY 1992 budget proposal	VA organizations develop individual IRM strategic plan for FY 1992+
		VA organizations submit IRM programs to A/S IRM for review
December 1990	VA organizations prepare President's FY 1992	VA organizations update FY 1992 IRM programs to reflect President's FY 1992
	Budget based on President's Budget Year decisions	Budget Year decisions
		VA organizations prepare OMB Budget Exhibits 43A (Obligations) and 43B (Major Acquisitions) to reflect President's FY 92 Budget Year decisions
		Publish final VA IRM Strategic Plan for FY 1993+
January 1991	President's FY 1992 Budget submitted to Congress	VA FY 1992 Information Resources Management Program is published
		Call for FY 1993 Information Resources Management Programs issued

Appendix B: Strategic IRM Process Tasks

TASKS	DATE DUE
A. IRM STRATEGIC PLAN PHASE	
1. Issue approved IRM Strategic Planning Process	9/28/89
2. Issue Secretary's Strategic IRM Guidance	10/2/89
3. Establish Strategic IRM Executive Council & Senior IRM Steering Committee	10/3/89
4. Convene Strategic IRM Executive Council to develop VA's Framework for an IRM Strategic Plan	Oct. 16-17, 1989
5. Convene the Senior IRM Steering Committee to review results of the Strategic IRM Executive Council Conference and establish Work Groups; provide IRM Strategic Planning Framework to VA elements	Oct. 1989
6. Senior IRM Steering Committee analysis and approval of IRM Strategic Plans from VA elements	Dec. 1989
7. Pubish/distribute final IRM Strategic Plan	Dec. 1989
B. IRM STRATEGIC PROGRAM PHASE	
1. Senior IRM Steering Committee issues IRM Strategic Program call	Jan. 1990
2. Submit IRM programs to Senior IRM Steering Committee	Mar. 1990
3. Review/analyze Administration & Office IRM programs	Mar. 1990
4. Conduct IRM program hearings	Apr. 1990
5. Reach decisions on IRM programs	Apr. 1990
6. Prepare final IRM programs and revise IRM Strategic Plan as needed based on decisions on IRM programs	May. 1990
C. IRM STRATEGIC BUDGET FORMULATION PHASE	
1. Develop internal IRM budget	Apr/May 1990
2. Conduct IRM budget hearings, appeals, and reach decisions	June/July 1990
3. Revise IRM Strategic Plan and IRM program plans as needed based on IRM budget decisions	July 1990

NON ADP ACTIVITIES WITHIN THE SCOPE OF THE IRM PROGRAM

Correspondence management - Correspondence management functions ensure conformance with established policies concerning correspondence preparation including style, design, format, media, and proper protocol.

Data Administration - Involves the development and management of policies, standards and procedures to assure consistency in the use of information and to minimize redundancy. Includes data naming conventions, controls for data sharing and access and the roles of the data coordinators and Data Administration Committee members.

Directives management - Directives management involves establishment of policy and procedures for directives and publications compliance with standards for writing and publishing new issuances, maintaining history files, establishing requirements for initial distribution and restocking of directives and publications, and providing advice and assistance on directives and publications.

FOIA/Privacy - Freedom of Information Act (FOIA)/Privacy Act activities require responding to approximagely 20,000 inquiries per year. In the course of these activities, determinations must be made as to the releasing of information. Fees must be established and information released on time. Requested information must be released within time limits set by law.

Forms management - Forms management requires that the design and use of internal and public-use forms and letterheads be controlled. Surveys, questionnaires and forms must be forwarded to OMB for approval.

GSA liaison on IRM issues - VA is required to submit an annual report to GSA that highlights the Department's accomplishments during the past fiscal year, sets forth the Department's IRM Plan for the coming fiscal year, and provides an update on compliance with Section 3506 of the Paperwork Reduction Reauthorization Act of 1986.

Mail Management - Mail management functions include budget monitoring, local arrangements for vendor services for mail dispatch and delivery, and conducting mail volume and cost surveys.

OMB Public Use Reporting and Other Paperwork Reduction Act Responsibilities - These responsibilities include monitoring and coordinating activities under the Paperwork Reduction Act, and other IRM related functions. This area includes OMB public-use reporting accountability.

Records management - Records management involves monitoring and controling records management activities, providing technical advice and guidance to program officials on maintenance, use, and disposition of records. Records are examined to determine their administrative, legal, financial, and historical value. Determination of the best methods for converting paper records to automated formats is also a function in this area. VA Records Officers implement guidance issued by the National Archives and Records Administration and GSA on the adequacy and documentation of records disposition programs, and the economy and efficiency of records management practices.

Reports management - Reports management requires review and coordination of all matters concerning internal and external reporting requirements. This involves ensuring report deadlines are met, that reports are complete and accurate, that new report requests are responded to in an appropriate and timely manner, and that assistance is provided to program officials during the periodic review of their reports.

Reports preparation - The reports preparation function is the process of collecting data from VA field stations, summarizing, and preparing a tabular report to the VACO user. These reports are recurring, scheduled, and, frequently, required by the user for reporting to other Federal agencies. Data are collected by teletype, electronic mail, FAX, or mail.

Statistical analysis - This involves the collection and summarization of data, and the interpretation and analysis of data to identify anomalies, trends, shifts in trends, potential problems, reliability and validity. Data sources can be ad hoc information collections, existing statistical and administrative files, and/or external data. Analysis involves the use of statistical techniques for forecasting, budget formulation, planning, and understanding the effects of VA programs.

REORGANIZATION OF FIELD STRUCTURE

SENATOR MIKULSKI: What is the status of your effort to reorganize the VHS&RA field structure? When will the four new regional headquarters be operational?

ANSWER: Plans to implement the reorganization of VHS&RA field operations are on schedule. As directed by the Secretary the Medical District Offices were phased out on March 31, 1990. The realignment of the regions is subject to the "report and wait" provisions of 38 U.S.C. 210(b). A report requesting a waiver to proceed with implementation of the changes was submitted to the Congress on January 22, 1990. Every effort is being made to safeguard the continuity of operations and to assist employees impacted by these changes.

QUESTIONS SUBMITTED BY SENATOR LEAHY

NATIONAL MEDICAL ETHICS CENTER

SENATOR LEAHY: Mr. Secretary, White River Junction established the first and only Regional Ethics Center in the VA system. The center has acquired a national reputation for drafting policies on ethical issues.

I understand VA central office is currently considering proposals for a national ethics center. How far along is the selection process? I hope you will give serious consideration to our proposal to bring this prestigious center to White River Junction.

ANSWER: The Department is currently reviewing 11 proposals for a national ethics center, including the submission from White River Junction. A group of individuals with expertise and experience in medical ethics, chaired by Dr. Edmund Pellegrino, Director, Center for the Advanced Study of Ethics, Georgetown University, a highly respected national leader in the field of medical ethics, met June 12th in Washington, D.C. This evaluation group, which includes representatives of VHS&RA in addition to other experts in the medical ethics field from outside the VA, recommended the three highest ranking applicants. Based on the results of the meeting, pilot site visits to those three applicants may be scheduled. Selection of the National Medical Ethics Center is anticipated by October 1990.

MEDICAL RESEARCH CUTS

SENATOR LEAHY: Mr. Secretary, I am concerned that the VA proposes to cut the budget for medical research in FY 1991. Over half of VA research proposals approved by merit review will reportedly be unfunded for FY 91. Is this correct? I am convinced that VA research provides important returns from a minimal investment. Why did the VA decide to make this cut?

ANSWER: Actually in FY 1990 only 43% of the approved applications to Medical Research Service were funded. In FY 1991 this percentage will decrease further.

The Secretary of Veterans Affairs has established a Blue Ribbon Panel of outstanding experts to review the VA Research Program. This panel was requested to review such issues as the relevance of VA research to veterans' health problems, priorities for research effort, and the role of research in the overall VA health care system. This panel is also reviewing all sources of funding support for VA research. After reviewing the Blue Ribbon Panel's report and recommendations, the VA will be able to respond more fully to the concerns that you raise.

WHITE RIVER JUNCTION

SENATOR LEAHY: Mr. Secretary, White River Junction was one of six rural locations where the VA was reportedly considering a consolidation of benefit offices. You informed me in February that moving these offices was a tentative proposal the VA was considering to improve the quality and efficiency of benefits delivery. Do you have any information that would indicate that the offices at White River Junction are not efficient or do not provide quality services?

Are you still actively considering the relocation of the compensation and pension offices at White River Junction?

ANSWER: We have no consolidation plan involving the adjudication division located in the White River Junction Medical and Regional Office Center.

As part of our planning process, we look for ways to improve the way we process claims, increase our outreach services and otherwise give veterans and their dependents greater access to VA services. The proposal mentioned in your question was part of such an internal VA package. There are no plans to consolidate any of the adjudication divisions mentioned int he study. This was a preliminary proposal that had not been approved by the Chief Benefits Director or me.

You also requested specific information concerning the efficiency of the compensation and pension offices at the medical and regional office center in White River Junction. The Veterans Benefits Administration maintains various statistical data on the timeliness and quality of claims processing. Those data show that White River Junction has a productive adjudication division which provides timely and quality service.

PROTECT SERVICES IN "NEW" REGION 1

SENATOR LEAHY: Mr. Secretary, I welcome your efforts to improve efficiency within the Veterans Administration. I am concerned, however, about your proposal to reduce the number of medical care regions. Under this plan, Region 1 would be merged with Region 2. Both of these areas are currently revenue losers in the VA system. What is the VA going to do to protect services in the "new" Region 1?

ANSWER: The geographical areas that will constitute "new" Region 1 incurred losses under the Veterans Health Services and Research Administration's previous resource allocation methodology (RAM), which is currently out of service for FY 1991 and is under intensive review. A transitional RAM has been developed and is undergoing a period of systemwide review and comment. Within the revisions to the RAM being considered for beyond FY 1991, there is recognition for using a facility's unique cost and workload characteristics. In this way, facilities and/or Regions could not have their funds reduced simply due to being "revenue losers" because their specific costs would be recognized provided they are considered to be within reason.

The Department will continue to develop decision support systems based on demographic, eligibility, and utilization factors which will promote uniform geographic availability of medical care services to veterans.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

POST-TRAUMATIC STRESS DISORDER PROGRAM

SENATOR LAUTENBERG: The National Vietnam Veterans Readjustment Study found that 479,000 veterans who served in the Vietnam theatre of operations currently suffer from post-traumatic stress disorder (PTSD) and that only 10 percent of those veterans had received any mental health treatment in the 12 months prior to the study's conclusion. VA does not contest the validity of the study's methods or the figures cited in it.

The tremendous need represented by the RTI data is not being met by VA. Many in New Jersey suffer from this terrible affliction and require help.

Currently there are 23 PTSD (clinical, 4-person) treatment teams (PCTs) and sixteen specialized inpatient PTSD units (SIPUs) operating throughout the country. The 23 PCTs will be supplemented by 20 new PCTs which were designated on May 1.

The funding for eight of the existing 23 PCTs and all of the 20 PCTs recently designated has come directly from Congressional add-ons by the Senate Veterans Affairs and this Subcommittee. VA has also stated that 4 new SIPUs will be designated this fiscal year as a result of the add-on.

Why hasn't the VA taken the lead in seeking such funding? Do you consider it to be necessary?

ANSWER: Although support from Congressional add-ons has been invaluable in promoting development of PTSD treatment programs, VA has in the past, and will continue to provide support for PTSD programs. In FY 1987, VA Central Office provided funds for two clinicians of the four in each of fifteen PTSD Treatment Teams, the forerunners of the current PTSD Clinical Teams (PCTs). These resources, $1.95 million and 30 FTEE, were carried over in FY 1989 and incorporated into the funding of the 24 PCTs designated that year. Also, the four new SIPUs designated in FY 1990 are funded from VA's own FY 1990 budget as is one outpatient PTSD program that was inaugurated with FY 1989 start-up funds as the twenty-fourth PCT. Through the MEDIPP process, plans for more SIPUs and PCTs are being developed.

SENATOR LAUTENBERG: Congressional action in providing funds for PTSD treatment and research has been required by the slowness with which VA has responded in the PTSD area. Even with the Congressional expansion of resources devoted to PTSD, the current system is clearly not meeting the enormous need.

According to VA, the current average waiting time just for clinical assessment at the SIPUs is 10 weeks, with one site having a waiting time of 32 weeks and three having 24-week waits. After undergoing clinical assessment, veterans are then put on another waiting list for treatment.

According to VA, the average length of time a veteran must wait for treatment in a SIPU is 7.5 weeks. The waiting period is up to 10 to 12 months at some sites, and 5 sites have waiting periods of 4 months longer.

Do you find these waiting times acceptable? Desirable? What are you doing to decrease those times?

What is the average waiting time for New Jersey veteran?

ANSWER: Clearly, long waiting lists are not desirable. They are acceptable only insofar as they represent VA's effort to meet the needs of veterans with PTSD in the best manner possible within the constraints of available resources and competing demands for vital services. The establishment of new SIPUs (as in FY 1990), MEDIPP guidance promoting the development of new PTSD treatment programs and continuing education on PTSD treatment for the staff of general psychiatry inpatient and outpatient programs, are all efforts to meet the clinical needs reflected by PTSD treatment program waiting lists. The average waiting time for the SIPU at the Lyons, New Jersey, Department of Veterans Affairs Medical Center, as reported on May 9, 1990, is 4 months for screening, with admission for treatment upon completion of screening, without further waiting. The waiting list includes 115 veterans, with 8 veterans screened per week.

SENATOR LAUTENBERG: The Senate Veterans' Affairs Committee, in its budget views and estimates for FY 1991, recommended that $11 million dollars be added to the administration request to fund 25 new PCTs and 3 new SIPUs. It also recommended this money be used to augment the budget of the National Center on PTSD to allow it to carry on its important role of education and research activities, including the study of minority populations.

In light of the demonstrated need and these long waiting lists, what are VA's plans under the budget request for expanded PTSD treatment capacity in FY 1991?

ANSWER: The FY 1991 budget continues funding for all PTSD treatment programs as expanded during FY 1990. The Budget Request does not identify plans for further program expansion.

SENATOR LAUTENBERG: With no additional resources devoted to PTSD even to counteract the effects of inflation, fewer actual resources would be directed at this severe problem.

How can this neglect of a clearly service-related need, which ought to be a top priority, be justified when the Department has requested over $900 million additional dollars for medical care?

ANSWER: In recent years, VA has increased its specialized PTSD treatment capabilities significantly, employing its own resource initiatives and Congressional add-ons. Currently, there are twenty SIPUs, and forty-four PCTs operational or under development. Currently, there are also four PSUs inpatient based programs designed to treat co-existing PTSD and substance use disorders concurrently. In addition, in August 1990 at least three to six new outpatient programs designed to concurrently treat coexisting PTSD and substance use disorders will be designated. These Substance Use Disorder/PTSD Teams (SUPTs) will receive resources from the substance use disorder treatment expansion funds. In total, current specialized clinical PTSD programs are funded with $11.6 million in recurring resources. In addition, $47 million are allocated to the treatment of Vietnam era veterans through Readjustment Counseling Service's Veterans Outreach Centers and contracting programs. Also, the National Center for PTSD's research and educational activities have a $2.1 million recurring budget and PTSD education and evaluation activities have $500,000 in recurring funds.

All the above resources are allocated for centrally-funded specialized PTSD treatment, but these are not the only PTSD treatment services provided by VA. Surveys of inpatient discharges recorded in VA's Patient Treatment Files reveal that in the period from FY 1987 to FY 1989, 66 percent of PTSD discharges came from VA medical centers that do not have a specially funded PTSD unit. These patients were treated in general psychiatry programs, often in PTSD treatment modules established by interested clinicians on these services. In a Mental Health and Behavioral Sciences Service survey of treatment programs in FY 1988, at a time when there were only 16 SIPUs and 15 PTSD treatment teams, 89 VA medical centers reported have some form of organized PTSD treatment activity.

As noted in the responses to Questions 1 and 2, VA MEDIPP planning is promoting the development of more specialized PTSD units in recognition of continuing need for these services and the increasing willingness of veterans to use these services. Increasing utilization of VA treatment resources by veterans with PTSD is reflected in the National Vietnam Veterans Readjustment Study (half of the veterans who had used VA mental health services had done so in the year prior to the study) and by the increase in veterans with PTSD discharged from VA inpatient programs annually (from 5,377 individuals in FY 1984 to 12,750 in FY 1989.

SENATOR LAUTENBERG: I understand you plan to activate 4 new SIPUs in FY 1990. But four additional inpatient units would result in a total of only 20 SIPUs and an increase of a mere 55 to 65 beds. With veterans waiting up to one and a half years for treatment, how can these few added beds can put a substantial dent in the problem?

ANSWER: VA's commitment to PTSD treatment program development has been outlined in the previous question responses. Such program development can only be carried out incrementally for practical reasons which include not only the fiscal constraints and competing requirements of other vital health care programs, but also the time required to hire and train the staff of new treatment units. The clinical activities VA is undertaking in the area of concurrent treatment of patients with PTSD and Substance Use Disorders is innovative, requiring the development of new, effective treatment approaches. The unmet needs of patients with PTSD are real, but the solution to the problem does not lie in the abrupt large-scale shifting of resources into PTSD programs, which might compromise other vital programs. The answer to this problem is the incremental development of PTSD programs, which is the course that VA has chosen.

RADIATION

SENATOR LAUTENBERG: In the statement of managers for the Conference Report on the F.Y. 1990 Appropriations Act, we earmarked $1 million for a 'Dioxin Survey', which was intended to be equivalent to the National Academy of Sciences (N.A.S.) study that would be required under the agent orange legislation that the Senate passed twice last year.

On December 20, 1989, several Senators wrote to Secretary Derwinski strongly urging him to arrange with N.A.S. or another independent scientific organization to conduct the study for which the $1 million has been appropriated.

Secretary Derwinski replied on March 21, 1990, that such a study was unnecessary in light of literature reviews conducted under contract with V.A. by other groups. However, in testimony last week before the House Committee on Veterans' Affairs, Deputy Secretary Principi stated that V.A. would be agreeable to funding such a study by N.A.S.

Has V.A. changed its position on an N.A.S. study of agent orange health effects, and how is V.A. now moving ahead with its responsibility to use this $1 million in the way Congress directed it be used?

ANSWER: VA's position on the use of $1 million to support a literature search by N.A.S. is unchanged. The Department, however, is willing to engage in informal consultation with N.A.S., should it be determined that their assistance is required in the evaluation of such literature. As noted in the Secretary's response of March 21, 1990, VA believes that there are "existing mechanisms" which currently fulfill the intent for which the $1 million was appropriated. These mechanisms, cited by the Secretary in his response, include the review of herbicide literature by the mandated Veterans' Advisory Committee on Environmental Hazards and the VA's ongoing, indepth review of herbicide and dioxin-related literature published since 1981.

VA's current plans are to utilize the $1 million to support other Agent Orange and Vietnam veteran-related research including among other contemplated research activities, support of the women's health study mandated by Public Law 99-272. It is the Department's assessment that such research will provide for meaningful and cost-effective use of the appropriated funds.

REPLACEMENT OF MEDICAL EQUIPMENT

SENATOR LAUTENBERG: According to VA data, your replacement equipment backlog will be almost $638 million by the end of the current fiscal year and well over $791 million by the end of FY 1991.

Doesn't this backlog mean that vast amounts of medical equipment in VA facilities are unoperational or in poor operating condition and that some of the equipment is unsafe?

ANSWER: The backlog does not necessarily reflect immediate need; many items operate efficiently beyond established life expectancy. In these cases the VA exercises judgment in deciding whether or not to replace such equipment. While the need to replace the item may not be immediate, should the item cease to function, replacement may become an immediate need.

SENATOR LAUTENBERG: Doesn't this situation threaten the quality of care?

ANSWER: The types of equipment included in the backlog are categorized as nonexpendable personal property which ranges from office equipment to high tech medical equipment required to support and maintain a medical center environment. Obviously, replacement funds that become available such as the $44 million added by the Senate to the $50 million voted by the House for the FY 1990 Supplemental Appropriation are utilized to purchase items of equipment deemed to be most critical and that impact on the delivery of quality care to veterans.

SENATOR LAUTENBERG: Given this enormous backlog which is growing larger each year, isn't it clear that additional funds for replacement equipment should be a high priority?

ANSWER: Yes. The reduction of this replacement equipment backlog at our medical facilities is a high priority. Oftentimes we find that the cost to replace "old" items with high tech equipment, e.g., existing X-ray equipment acquired 20 years ago for $200,000 might be replaced with equipment which will cost $1 million to maintain. Additional funds are necessary to reduce this replacement equipment backlog to continue to provide quality medical care to our Nation's veterans.

HOMELESS VETERANS WITH AIDS

SENATOR LAUTENBERG: The third annual report of VA's homeless, chronically mentally ill program, (HCMI) noted that significant numbers of homeless vets are HIV positive and have special needs for housing, counseling services, and health care services. This is a real problem in New Jersey.

However, even with the demonstrated need illustrated by the HCMI Report, the Administration's FY 1991 budget recommendations included no funds to address the serious needs of this special population. The VA appears unwilling to commit the resources necessary to treat these growing numbers of homeless vets with AIDS at a time when the resources can have a real impact.

In view of the significant number of homeless vets with AIDS -- a number which, from all indications, is growing larger each year, do you agree with the HCMI report's assessment that homeless vets with HIV infections need specialized housing resources, counseling services and health care in addition to the services currently available from the HCMI program?

ANSWER: As indicated in the third progress report on the HCMI program, 1.6% of veterans seen in the HCMI program are believed to be HIV positive based on the clinical judgment of the program staff. Approximately .6% of these homeless chronically mentally ill veterans have symptoms of AIDS. While these numbers are small, we believe they are significant and it appears that they are growing. Comprehensive services that include housing, counseling and health care are necessary for the vast majority of homeless veterans and appears to be particularly important for those who are HIV positive and those who have AIDS.

SENATOR LAUTENBERG: What is VA doing to meet these special needs?

ANSWER: Within the HCMI program, the sites at VAMCs New Orleans and New York have incorporated AIDS education into their counseling and treatment programs for homeless chronically mentally ill veterans. The HCMI program at VAMC Houston has an additional outreach clinician who conducts focused outreach to veterans with AIDS. In addition to the HCMI program, VA has the Domiciliary Care for Homeless Veterans (DCHV) program at 26 VA medical centers. Clinicians in a few of these programs have estimated that as many as 20% - 40% of the patients at those specific sites may be HIV positive. The DCHV program, like the HCMI program offers residential care, counseling and rehabilitation to homeless veterans, including those with AIDS. Staff assigned to the DCHV programs receive formal education about AIDS and patient education about AIDS is part of each DCHV treatment and counseling program. Finally, VA has extensive treatment capability for HIV positive veterans. In FY 1989, VA provided treatment to over 10,000 HIV positive patients. Of those, 4,338 had AIDS.

QUESTIONS SUBMITTED BY SENATOR FOWLER

Secretary Derwinski, I welcome you before the Subcommittee today. I want to thank you once again for the opportunity to travel with you this past February on our tour of the Augusta and Dublin, Georgia VA Medical Centers. I am pleased we could discuss some of the very critical issues facing the Department of Veterans Affairs nationally and some of the specific concerns we have in my State.

VA MEDICAL RESEARCH

SENATOR FOWLER: My first question concerns VA Medical Research. In Georgia, the Augusta and Decatur VA Centers rely on their affiliation with nearby medical schools -- specifically the Medical College of Georgia and Emory -- to conduct research. I have been alerted by these schools to the problem of reduced federal support for vital research projects. I understand that over the past four years, funding for Medical and Prosthetic Research has decreased by 13%. Last year, we appropriated over $212 million for Research; for FY 1991, you're asking for only $198 million. Can you please comment on how you plan to maintain these university affiliations in light of your current proposal to reduce funding for VA Research?

ANSWER: We see FY 1991 as a year of consolidation in VA's Research and Development Program. During this time we will be planning to implement the recommendation's of the Secretary's Advisory Committee for Health Research Policy. The Committee is scheduled to present the major portion of its recommendations to the Secretary in July 1990. It seems likely that these recommendations will provide the Secretary with a solid foundation for strengthening the Research and Development Program in FY 1992 and perhaps moving it in new directions.

REPLACEMENT OF MEDICAL EQUIPMENT

SENATOR FOWLER: My next question deals with medical equipment. I just heard a disturbing story about nurses in our Dublin VA Medical Center actually having to share stethoscopes as they do their daily rounds. I know the care we're providing our veterans must suffer when equipment is outdated or not available at all. Can you please tell me how you're addressing this problem?

ANSWER: The topic in question has been thoroughly reviewed with Nursing Service at the Dublin VA Medical Center. We cannot identify a shortage of stethoscopes nor has Nursing Service received any complaints concerning this item. Our current practice is to allocate a reasonable number of stethoscopes based on patient workload to each ward. Our newer stethoscopes have disposable ear pieces with these replaceable ear pieces kept on the ward for use. We currently have twenty-five new stethoscopes in S.P.D. along with disposable ear pieces should a need arise.

NURSING HOME CARE AT VAMC TUSKEGEE

SENATOR FOWLER: Mr. Secretary, I have a specific concern to raise about the Tuskegee VA Medical Center, where over a third of the patients served are from Georgia. I'm told the nursing home facility there is in terrible shape -- with questionable fire protection systems, poor bathroom facilities, a deficient nurse-call system, and elevators too small to transport patient beds. The facility needs serious renovation work, but I understand that the request for this project has been on the books for over 5 years now, with construction funding targeted for some unspecified future time.

As our nation's veterans age, your Department must take the lead in providing care and housing for the elderly. I'd like to know why projects like this one at Tuskegee don't receive a higher priority in your construction planning.

ANSWER: Veterans Health Service and Research Administration has initiated several interim projects involving the nursing home at VAMC Tuskegee to improve patient accommodations. The 112 nursing home residents have been located on the two floors of Bldg. 62 since early 1988. These residents will be moved to Bldg. 50 during the first quarter of FY 1991. Currently, Bldg. 50 is undergoing minor renovations with three NRM projects to install lavatories, remodel bathrooms and partitioning large dormitory style bathrooms to provide some patient privacy (no more than four-bed rooms). These interim renovations will improve living conditions for residents and correct life/safety deficiencies. The residents will remain in this facility until a Facility Development Plan is finalized and recommendations made to either totally renovate Bldg. 62 or build a replacement NHCU. A decision will be made within the next 12 months.

DECATUR VA CENTER PARKING FACILITY

SENATOR FOWLER: Mr. Secretary, I have a specific question about a construction project at our Decatur VA Medical Center. It seems that the VA is building a new parking facility for the Hospital, and the neighbors in the surrounding community are very concerned about the VA cutting down trees and destroying vegetation along the bank of Peachtree Creek. There is a buffer-law in Georgia, which requires builders to preserve a 25-foot natural buffer next to all state waterways. While I certainly support the VA in meeting its construction obligations, I also firmly believe the federal government must comply with laws that have been enacted to preserve the quality of the environment. Can you tell me how the VA is handling this situation in Dekalb County, Georgia?

ANSWER: VA is sensitive to criticisms from the local civic organizations and has been responsive to each of their specific concerns. We have met with their representatives on at least three occasions and communicated by phone and in writing several times.

Construction documents for the parking deck were completed and ready for bid solicitations two months prior to the state passing the 25-foot buffer law. After learning of the law, we sought advice from Dekalb Country on how to proceed with our project since we were so far along. The County recommended that we submit our plans to the Georgia Department of Natural Resource (DNR) for a determination. DNR determined that our project was exempt from the law, because it was elevated over the creek and allowed flood waters to flow through and out the structure. We proceeded with the project based on DNR's determination, but not before the negative impacts of our project on the creek and what should be included in the project scope to mitigate them. We are implementing these mitigation procedures in the project. We have obtained the required permit from the Corps of Engineers and are strictly enforcing the contract environmental protection plan which provides for sediment and erosion control and filtering of site run-off water.

VA Medical Center Public Affairs Officer is continuing to respond to each inquiry on environmental issues concerning the parking deck. Our enforcement of the contract environmental protection plan is protecting the creek from pollution generated by the construction project.

UNIVERSITY AFFILIATIONS

SENATOR FOWLER: I do have one other question related to the VA's university affiliations: Have you considered establishing residency programs within the VA system for medical school graduates? I would think setting up such a program might increase and enhance staffing of physicians at VA Medical Centers. I'd appreciate your comments on this.

ANSWER: Policy Memorandum No. 2, dated January 30, 1946, established the basic Agency policy for association of VA facilities with medical schools.

Currently, 141 VA facilities are affiliated with 104 U.S. medical schools. These affiliations support approximately 8,500 Residency positions; a total of 30,000 residents rotate through VA facilities each year.

VA HOME LOAN PROGRAM

SENATOR FOWLER: I'd now like to ask you about the VA Home Loan Program. I understand you're proposing that veterans start paying a downpayment in order to get assistance from the VA in buying a home. Can you please justify to us why this 4% downpayment is essential?

ANSWER: The Loan Guaranty Program has required over $2 billion in appropriations since the beginning of FY 1988. This financial support has been necessary to offset losses sustained from foreclosures of guaranteed loans. it is well established in the mortgage lending industry that the foreclosure rate is lower when borrowers make downpayments. When homeowners encounter financial difficulties, those with equity in the property are more likely to seek ways to avoid foreclosure. We believe that the incidence of foreclosure and the related costs to VA will be significantly reduced by imposing a four percent downpayment on loan amounts in excess of $25,000. Under this proposal the financing terms obtained by the veteran would still be superior to the typical conventional terms available to nonveterans.

MEDICAL CARE COST RECOVERY

SENATOR FOWLER: My final question is about your efforts to collect insurance payments from veterans who do carry health policies. I read a GAO report last week that claimed somewhere between $55 million and $392 million is lost to the federal government every year because the medical centers just fail to collect payments. Can you tell me what steps you're taking to collect these insurance payments so we can recapture some of the VA's medical costs?

ANSWER: VA is currently engaged in a major effort to establish more effective management of the medical care cost recovery program. While this effort will result in an increase in the identification, billing and collection process at the medical centers, major efforts are underway within VA Central Office to gain top management support.

VHS&RA (Veterans Health Services and Research Administration) formed a Medical Care Cost Recovery (MCCR) Task Force to examine MCCR policies and practices. The Task Force submitted their report with recommendations in April 1990. The Chief Financial Officer was tasked with the responsibility of enhancing the MCCR program and making it a priority within VA. The Chief Financial Officer established the Joint Development Group comprised of staffs from VA Central Office and several medical centers representing VHS&RA, Fiscal and General Counsel. This group has been analyzing the MCCR

Task Force report/recommendations, the recently released GAO reports, other VA reports on MCCR and their own recommendations on the MCCR program. The joint group has developed an implementation plan with milestone dates established for each of the recommendations from the collection of reports and is working toward enacting changes to policies and procedures to enhance MCCR activities.

In the most recent MCCR report providing collection statistics through the end of April 1990, VA has collected $71.1 million for FY 1990. Efforts are underway to implement a back billing project. This project will enable medical centers to back bill for the entire calendar year of 1989 for medical care provided to veterans. This effort will be focused on the identification of cases that have been over-looked and assuring that all billable episodes of inpatient and outpatient care have been billed.

VA is proposing legislation that would enhance the MCCR efforts. One of the sections would permit VA to recover from health insurers the cost of care provided to service-connected veterans for the treatment of their non service-connected conditions. This proposal could result in recoveries estimated at $111 million in the first year. Another section of the proposed bill would clarify VA's authority to collect from Medicare supplemental insurance policies. VA has been experiencing major problems with the supplemental insurance carriers who have been refusing to pay VA. Another section of this bill would establish a new appropriation account to which all recoveries would be deposited and from which VA costs of the MCCR effort would be paid. Using direct medical care funds for the cost recovery effort has been problematic. This new account will solve this problem and provide incentive for increased recovery efforts.

QUESTIONS SUBMITTED BY SENATOR GARN

Mr. Secretary, recently I had two visitors to my office from the Soviet Union. They wanted to discuss cooperative aerospace activities but during their visit they asked about the context in which the United States Government considers funding for our space program. When they learned that we devote more that twice as much of our national budget for veterans care activities then we spend on space, they were astonished. They couldn't believe that the United States, which never suffered the enormous population loss and catastrophic ravages of invasion during World War II could be incurring such a substantial annual veterans benefit program cost.

We pointed out that our miliary was also engaged in the Korean War and Vietnam. And they acknowledged that their experience in Afghanistan is also making an impact. But the most significant difference is that the United States has perhaps one of the most comprehensive and extensive veterans benefits programs in the world.

This perspective is important to me when I am confronted by arguments that we can't cut any veterans' benefit program, for any reason, and especially not one related to trying to balance the enormous Federal deficit. I, frankly, have a real hard problem appreciating the argument that just because an individual served in the military that the Nation is forever responsible for their health care needs.

When I enlisted in the Navy, I was making a decision, and fulfilling a commitment to serve my country, not signing a contract for lifetime benefits.

Mr. Secretary, I respect and applaud your efforts to take a fresh look at our veterans benefits programs. I thoroughly agree that eligibility standards are a patchwork, and piecemeal legislation over time have yielded a incomprehensible thicket of bureaucratic and irrational red-tape, that changes in military service compensation have fundamentally altered participants expectations flowing from enlistment, and finally, and perhaps, especially, a long hard look is needed on the issue of "service-connected" disability.

And I submit, that while we must redouble our efforts to "care for those who shall have borne the battle, and for his widow, and his orphan," much of today's debate extends to demands and expectations far beyond this commitment.

LEGISLATIVE REFORMS

SENATOR GARN: While the Appropriations Committee does not have jurisdiction over legislative changes in VA benefits programs, I note that your FY 1991 budget is predicated on a number of proposals for loan guarantee program reforms, compensation annual adjustments, and pension claims verification and reforms. I know that in past years similar proposals have been rejected by the Congress. What is your assessment of the prospects for favorable action this year?

ANSWER: While we are not in the position to predict, we are hopeful that Congress will act favorably on the following legislative proposals.

For the Loan Guaranty Program, the VBA FY 1991 budget is predicated in part on passage of four key loan guaranty items in the VA's legislative program for this session of Congress. First, we have proposed an increase in the loan fee from 1.25 percent to 1.75 percent and elimination of the funding fee exemption for veterans with service connected disabilities of less than 30 percent and the funding fee discount for veterans who make a downpayment. Second, we have proposed requiring a downpayment of 4 percent on VA guaranteed loans. Third, we have proposed the elimination of the manufactured home loan program; and fourth, we have proposed including losses on VA acquired property resales in the formula, known as the net value formula, used to determine whether the holder of a defaulted GI loan is permitted to convey the property to the Secretary.

In the Compensation and Pensions Program, we believe that the average veteran is anxious to know, as soon as possible, what the size of his increase in compensation benefits will be. The news media reports automatic COLA's as soon as they are determined for social security and VA pension benefits. The beneficiaries of our important compensation program, unfortunately have to wait, generally until the end of the legislative session, for what has now become a yearly ritual in passing a COLA.

The unsettled feeling during this waiting period has often been followed by a period of confusion while VA tries to issue checks, retroactive and current, to reflect the new rates as quickly as possible. The confusion is often followed by frustration because the veteran is not certain if he/she is getting the correct amount or not.

Pending legislation is S.1188, S.1633, and S.2406 proposes to allow VA access to "third party" income information reported to and maintained by IRS (e.g., information reported on W-2 and 1099 forms). Such access will be of tremendous assistance in determining the accuracy of beneficiary-reported information and in preventing fraud, waste and abuse in VBA's C&F programs.

SENATOR GARN: You have been accused of "betraying" veterans by conducting internal discussions within your Department on making comprehensive reforms in VA benefits programs. It seems that any change that was even partially motivated to reduce program cost and the Federal deficit in the eyes of your critics is somehow "unfair" and wrong-headed.

I certainly sympathize with your plight in which you get criticized for even considering potential program changes without prior approval of veteran service organizations. What is the status of these deliberations?

ANSWER: VA is working on a comprehensive project covering eligibility for medical and compensation programs, intended to identify and correct inequities in the current system. As you know, it is our intent to propose a number of reforms that will provide for a balanced system of eligibility criteria for VA health-care and disability benefits. We are making progress toward this end; however, equitable options for change are of paramount importance in these considerations as well as maximizing scarce resources for veterans' care. Such important changes necessarily entail careful deliberations. All Department program and staff officials involved have been working for several months to develop a comprehensive proposal. At this point, the proposal is still in the conceptual stage. Progress is continuing, but no final decision package has yet been prepared for OMB clearance.

SENATOR GARN: With respect to redefining the term "service-connected" injury of disability, I know that this never fails to stir up a hornet's nest protest. In years past I recall the arguments over coverage for falling-off bar stools or chasing after fumbled footballs. Are you making any progress in developing a more rational definition of what truly is "service-connected".

ANSWER: Options are under review for reforms in the benefit programs for service-connected disability and death which would ensure that scarce resources are targeted toward those whose disabilities or deaths are related to military duties and to those with the most serious needs. One option we are considering is a revised criteria for service-connected benefits for future veterans. Service connection (and disability compensation) would be granted only for disabilities or deaths directly related to the performance of military duties.

Any recommended changes would prospective in nature, that is, no veteran currently receiving benefits would experience a reduction. Any increase resulting from this reform initiative in terms of dollars or health care eligibility would affect all veterans immediately.

MEDICAL BENEFITS FOR SERVICE-CONNECTED CONDITIONS

SENATOR GARN: I've heard various estimates of what percentage of medical benefits provided by the VA is for treatment of illness or conditions directly resulting from military service. What is your current estimate? (Both inpatient, outpatient, and long-term care)

ANSWER: VA's primary inpatient data base, the Patient Treatment File (PTF), distinguishes between service-connected (SC) and non-service- connected (NSC) patients, and also indicates whether the care received was for SC or NSC conditions. The Outpatient Clinic file (OPC) also makes the distinction between SC and NSC patients, but does not indicate whether the care received was for SC or NSC conditions. These data are presented for FY 1989 for the three largest VA inpatient programs and for staff medical outpatient care, percent discharges for inpatient and percent visits for outpatient:

	SC Veterans for SC Conditions	SC Veterans for All Conditions
VA Hospital Discharges	10.7%	38.9%
VA Nursing Home Discharges	12.2%	39.6%
Community Nursing Home Discharges	13.7%	35.8%
Staff Medical Outpatient Visits	N/A	45.7%

DEPARTMENTAL STATUS

SENATOR GARN: Mr. Secretary, as you know, I opposed elevation of the Veterans Administration to departmental status. I said at the time that veteran service organizations were so successful in buffaloing Congress to giving them what they wanted, that I couldn't see how they could be more successful even if the VA was made a department. One advantage that I didn't see at the time, however, is that the additional visibility of your Department may prompt a fuller airing of the rationale and structure of veterans programs. Do you believe this goal is being achieved?

ANSWER: I believe the elevation of the VA to departmental status was a positive action--both through the added visibility that it has given to veterans issues as well as the opportunity it has provided for a full airing of the rationale and structure of veterans programs to which you referred.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

POST-TRAUMATIC STRESS DISORDER PROGRAM

SENATOR GRASSLEY: As I understand it, the VA has some 27 sites nation-wide where "Post-traumatic Stress Disorder Clinical Teams" (PCT Sites) are located. In addition, I understand that there are some 16 "Specialized Inpatient PTSD Units" (SIPU Sites) and four "Dual Diagnosis Sites" around the country.

Does the VA have any plans to expand this program? I ask because there is a fair amount of interest among Vietnam vets, including Vietnam vets in Iowa, in PTSD counseling. Although we do have three vet centers in Iowa which can provide counseling, and one in Moline, Illinois, the more specialized PTSD sites are all out of state and a fair distance from Iowa. Although I don't believe I have an exact number of those in Iowa who could use such counseling, we do hear from quite a few Iowa Vietnam vets who are concerned about PTSD, as was the case for that group of vets from Charles City with whom you met several months ago.

ANSWER: Yes, there are plans for expansion of PTSD services. Currently, there are 44 PCTs and 20 SIPUs, including the units being established in FY 1990. A Request for Proposal is currently being released by Mental Health and Behavioral Sciences Service for clinical teams based in outpatient substance use disorder programs to address concurrent problems of PTSD and substance use disorders. It is anticipated that at least three to six of these Substance Use Disorder/PTSD Teams (SUPTs) will be designated in August 1990. In addition, our regular planning process continues to solicit proposals for inpatient and outpatient PTSD programs.

QUESTIONS SUBMITTED BY SENATOR NICKLES

MUSKOGEE AFFILIATION

SENATOR NICKELS: Could you tell me the status of the 2B affiliation between the VA hospital in Muskogee, Oklahoma and the Osteopathic School? How many medical personnel are being provided to either the Tulsa Outpatient Clinic, or the hospital in Muskogee under the affiliation agreement and what are the current arrangements to provide compensation to the osteopathic school?

ANSWER: The new 2B affiliation agreement with the College of Osteopathic Medicine and Surgery of Oklahoma is working well.

At present, two interns specializing in Family Practice are rotating to the Tulsa Outpatient Clinic (Muskogee VAMC). This total will increase to four as of July 1, 1990.

VA does not pay funds directly to any university affiliate, instead there is a mutually beneficial relationship between the VA and its affiliates. Currently, two of the faculty members of the College of Osteopathy hold VA appointments. One physician is half time in Internal Medicine and one physician serves full time in Family Practice. Both of these physicians supervise rotations from the Osteopathic School at the Tulsa Outpatient Clinic.

CONSTRUCTION - MUSKOGEE HOSPITAL

SENATOR NICKLES: What is the status of the planned construction of a new tower for the Muskogee hospital?

ANSWER: The project at VAMC Muskogee is now proposed for construction funding in FY 1993.

SENATOR NICKLES: Why has the project been delayed?

ANSWER: The project was delayed to better define the needs of the medical center through the Facility Development Plan (FDP) process. As a result of the recently completed FDP, the major "Replacement Bed Building" project will be redesigned to be consistent with the strategy outlined in the FDP.

SENATOR NICKLES: Will your revised construction plans utilize the funds which have already been expended for initial design work?

ANSWER: The funds previously expended generated a design for the nursing units which will be incorporated into the redesigned project.

SENATOR NICKLES: What is the status of a minor construction project for a new heating and air conditioning plant for the Muskogee VA hospital?

ANSWER: Minor Project No. 623-061, Install Central Plant, is proposed for design funding in FY 1992 and construction funding in FY 1993. It will be designed to provide a new central energy plant for heating, ventilating and air conditioning (HVAC) service to the new bed building as well as to the remaining areas of the medical center. This project will provide relief to most of the current patient care areas in the interim before construction of the new building redefined above.

CONSTRUCTION - LAWTON OKLAHOMA OUTPATIENT CLINIC

SENATOR NICKLES: What is the status of plans to construct a permanent facility for the VA outpatient clinic in Lawton, Oklahoma?

ANSWER: The VA currently operates a satellite outpatient clinic at Comanche County Memorial Hospital in Lawton. The VA plans to construct a free standing 20,000 nsf clinic adjacent to Reynolds

Army Hospital, Fort Sill, OK. The clinic will function independently of the Army except for high-tech diagnostic support. Design funds have been approved for this minor construction project.

SENATOR NICKLES: When is it anticipated that construction of the facility will begin and initial occupancy occur?

ANSWER: Construction funding is being proposed for FY 1992. The mutual use sharing agreement of outpatient space at Comanche County Memorial Hospital is planned to continue until occupancy of the new clinic. This is anticipated to occur in the fall of 1993.

CONSTRUCTION - OKLAHOMA CITY HOSPITAL

SENATOR NICKLES: What is the status of the proposed new construction for replacement of the operating suite at the Oklahoma City VA hospital?

ANSWER: Award of the working drawing design contract is anticipated in the summer of 1990. Working drawings are scheduled to be completed by the summer of 1991 and a construction contract awarded in the fall of 1991.

QUESTIONS SUBMITTED BY SENATOR BYRD

HUNTINGTON VA MEDICAL CENTER CLINICAL ADDITION

SENATOR BYRD: What is the latest status of the $50.8 million Huntington VA Medical Center clinical addition, for which I broke ground on October 26, 1988? Last year, you supplied information for the record indicating that the project was four percent complete, that the parking structure was under construction, and that completion of the project was scheduled for summer of 1992.

Please provide for the record a schedule for completion of this important project, including significant milestone events.

May I have your assurances that the VA will meet that target?

ANSWER: The project is currently 30 percent complete. Anticipated completion of the new Clinical Addition is Winter 1991 and the entire project for the Winter 1992. The construction of the parking structure was completed in March 1990. Every effort will be made to keep this important project on schedule.

HUNTINGTON VA MEDICAL CENTER STAFFING LEVELS

SENATOR BYRD: The Committee has continually been concerned about staffing deficiencies at the Huntington VA Medical Center and last year urged the VA to provide a minimum of 50 FTE's in FY 1990. In your letter to me dated March 30, 1990, you indicated that the VA had set a target date for providing an additional 52 FTE's to the Huntington VA Medical Center by September 1990.

Please provide for the record a three-year plan for providing increased staffing for the Huntington VA Medical Center.

ANSWER: The following list provides currently anticipated three-year staffing levels for the Huntington VA Medical Center:

	FTEE
Fiscal Year 1989 Recurring Staff	460.3
Fiscal Year 1990 Adjustments:	
Resource Allocation Model Adjustment	5.4
Productivity Adjustment	(5.4)
Redistribution of Levels of Care	4.8
DHCP/PAID Redesign Savings	(1.9)
A-76/CALM/ISMS Savings	(2.0)
HIV/AIDS	.2
Activation - Clinical Addition	63.8
Fiscal Year 1990 Recurring Staff	525.2
Proposed Fiscal Year 1991 Adjustments:	
Resource Redirection	(2.0)
Quality Assurance	1.0
Unit Dose	8.0
A-76	(.4)
Eliminate Rotating Nurse Tours	14.0
Activation - Clinical Addition	176.0
Fiscal Year 1991 Staff	721.8
Proposed Fiscal Year 1992 Adjustments:	
Activation - Clinical Addition	22.0
Fiscal Year 1992 Recurring Staff	743.8

HUNTINGTON VA MEDICAL CENTER - ADDITIONAL PSYCHIATRIC BEDS

SENATOR BYRD: The Committee has been very concerned about the lack of inpatient psychiatric services at the Huntington Veterans Administration Medical Center. It was anticipated that the opening of the new clinical addition would provide the space needed to create a 30-bed psychiatric ward at the Medical Center. Two years ago the Committee was informed that the planned phasing of the clinical addition construction had been modified to move the renovation forward and that the psychiatric ward could be opened in 1990. The Committee was later told that the construction project was scheduled for 1991 and that it would provide for 70 psychiatric beds.

In your letter to me dated March 30, 1990, you indicated that the construction completion date for the new clinical addition is now projected for the spring of 1991 and that upon VA acceptance and activation of this addition and the VA Medical Center vacating space in the existing hospital, the contractor will proceed immediately with the renovation of the psychiatric bed space. You stated that the renovation portion of the project will not be completed until the summer of 1992 and that activation by the VA Medical Center will occur subsequent to VA acceptance of the completed renovation work.

Please provide for the record the current plans and specific schedule for providing additional psychiatric beds. What can be done by the Department of Veterans Affairs to accelerate this project?

ANSWER: As outlined previously under the topic of the clinical addition, a 30-bed psychiatric unit will be created at the medical center. The target date for completion of the contract renovations is Spring 1992. Activation of the psychiatric unit will begin immediately upon completion of the renovations. In the VA Medical Center's planning and scheduling of the various phases for the project, the psychiatric unit has been given the highest priority. Because the unit will be located in an existing medical bed section, renovations cannot begin until the Robert C. Byrd Clinical Addition Building is completed.

HUNTINGTON VA MEDICAL CENTER RESEARCH ADDITION

SENATOR BYRD: I am concerned about the proposed delays in the construction of the research addition to the VA Medical Center in Huntington, West Virginia. This project was originally scheduled for construction in Fiscal Year 1994 with advance planning funds to be provided in Fiscal Year 1991. I am advised that the new plan calls for construction to begin in Fiscal Year 1995 with advanced planning funds to become available in Fiscal Year 1992.

The completion of a research building for the Huntington VA Medical Center is an important and necessary addition to the Center, as such a complex would complete the major missions of the Center and contribute to the quality of patient care and the recruitment of more qualified staff.

On February 2, 1990, I wrote to you to convey my strong support for this project and to urge its funding according to the original schedule. Moreover, I recently secured the following language in the report accompanying the FY 1990 Dire Emergency Supplemental Appropriation bill:

> The Committee is concerned with the proposed delay in the construction of the research addition to the VA Medical Center in Huntington, WV. This project was originally scheduled for construction in fiscal year 1994 with advance planning funds to be provided in

> fiscal year 1991. The Committee directs VA to proceed with this project according to the original schedule.

It is my expectation that this project will receive the appropriate attention so as to preclude any delays and permit construction of the project according to the original schedule. Please provide for the record an updated schedule including significant milestone events leading to the timely completion of this project.

May I have your assurances that you will monitor this project so that it is completed on time?

ANSWER: Consistent with the report accompanying the FY 1990 supplemental appropriation, the Huntington research addition will be scheduled for advance planning in FY 1991, with construction in FY 1994.

Based upon system-wide priorities and projected resources, the Huntington research addition has not been included in the Department's Five Year Medical Facility Development Plan. Other construction initiatives have been ranked above the Huntington project.

MARTINSBURG VA MEDICAL CENTER AND EXTENDED CARE FACILITIES

SENATOR BYRD: Last year, the Senate Report accompanying the FY 1990 VA, HUD-Independent Agencies Appropriation bill, the Committee included the following language at my request:

> The Committee again wishes to reiterate its concerns over two projects at the Martinsburg Medical Center. These projects, replacement of the laundry facility and the construction of extended care facilities, have experienced recurring delays during the course of the past few years. The Committee understands that the cost of the past few years. The Committee understands that the cost study conducted pursuant to the Office of management and Budget circular A-76 has been completed and that the Martinsburg VA Medical Center laundry facility is to continue to be operated as a Government operation. Consequently, the Committee directs the Department of Veterans Affairs to redouble its efforts to plan and budget for a replacement laundry facility and to incorporate the necessary funds in the earliest President's budget so that the Congress may give early consideration to this high priority project. The Committee urges the VA to review the status of these projects and to accelerate their development at the earliest possible date.

In addition, I have been in communication with the Secretary of the Department of Veterans Affairs, expressing my support for these projects.

Last year, you indicated, in your answer for the record of the April 18, 1989 VA hearing before the VA, HUD-Independent Agencies Appropriations Subcommittee, that if the A-76 approval were granted, the project would be considered for funding in FY 1991, and that a project was being considered for FY 1991 to renovate space at the Clarksburg Medical Center to accommodate an increase of 30 nursing home care beds.

In your letter to me dated March 30, 1990, you advised me that the laundry renovation and equipment replacement projects are now planned for 1993 and that a domiciliary unit containing 200 beds is scheduled for inclusion in the Advanced Planning Fund for FY 1992 with design and construction planned for FY 1995.

I am very much concerned about the apparent delays in implementation of these projects.

Please provide for the record a full status review of these projects, including significant milestone events and specific schedules leading to their completion.

ANSWER: VAMC Clarksburg -- a project to renovate space for 30 nursing home care beds at this Medical Center is presently being considered for FY 1992. This is one of a series of renovation projects currently proposed by the Medical Center, projects made possible as a result of space that has become available due to the recently completed Clinical Addition. As an FY 1992 project, development of the project scope for the nursing home care renovation has not been substantially undertaken to date. No specific schedule can be provided at this time on this project.

VAMC Martinsburg -- the laundry project is being considered as a major construction project. Utilizing resources previously identified for this project, it is still proposed for the FY 1993 major construction program. The Department however, is studying the possibility of accomplishing this project in the minor construction program. If this is possible the project may be proposed for the FY 1992 minor program.

Renovate other Dom buildings -- this project is currently proposed for the Advanced Planning Fund in FY 1992 with construction in a future year.

SENATOR BYRD: What can be done to accelerate the execution of these projects?

ANSWER: VAMC CLarksburg -- the Medical Center has developed a sequence of "backfill" projects, following the construction of their Clinical Addition. In this sequence, renovation to accommodate the nursing home care beds must follow another nursing unit renovation project, one currently proposed for FY 1991. Adherence to the presently planned sequencing of projects limits the possibilities of accelerating accomplishment of the nursing home care project.

VAMC Martinsburg -- if the laundry project can be accomplished in the minor program it would be possible to fund the project in FY 1992, depending upon Department priorities and budgetary constraints. That would accelerate the project a full year ahead of its current major schedule. At this time, it is not anticipated that the design of the Dom project will begin before FY 1992, due to other Department priorities.

OUT-OF-STATE TREATMENT OF CLARKSBURG, WEST VIRGINIA VA MEDICAL CENTER PATIENTS

SENATOR BYRD: Last year, the Committee, in the Senate Report accompanying the FY 1990 VA, HUD-Independent Agencies Appropriation bill, expressed its concern about the overall state of veterans health care and particularly about veterans who are transferred from the Clarksburg VA Medical Center to out-of-state VA medical facilities. In an effort to address this problem, the Committee encouraged the Department to conduct a demonstration project between the Clarksburg VA Medical Center and Ruby Memorial Hospital to reduce the practice of transferring patients far from their own localities, thereby causing discontinuity of care, inconveniences for the patients and their families, and excessive delays in their receipt of medical care. In 1988 alone, at least 2,039 West Virginia veterans were sent to Pittsburgh outpatient clinics, while another 308 West Virginia veterans were hospitalized at out-of-state VA medical centers for services not available at the Clarksburg VA Medical Center and Ruby Memorial Hospital, a state-of-the-art, tertiary care teaching hospital at West Virginia University. The West Virginia University School of Medicine, which is affiliated with Ruby Memorial Hospital, has a Dean's Committee relationship with the Clarksburg VA Medical Center, and this demonstration project would build upon that existing relationship.

A year has now passed, and I am advised that no demonstration project is planned in developing such a project and that there are still long delays in providing medical care for West Virginia veterans at the Clarksburg VA Hospital. I am concerned about this situation and expect a resolution to this matter as soon as possible.

Please provide for the record the status of the demonstration project which the Committee encouraged in last year's report, including specific milestone events and plans for implementation.

ANSWER: Dr. Robert M. D'Alessandri, Dean of West Virginia University Medical School, has been working with the Director of Louis A. Johnson VA Medical Center, Clarksburg, West Virginia, to find a viable plan. Dr. D'Alessandri in his letter to the staff of the Appropriations Committee indicated that hospital costs for a prospective 300 admissions would be $3.2 to 4.0 million and physician costs would be $540,000. The Dean requested a special grant to implement this demonstration project in light of the limited VA resources. Prospectively, the budget for FY 91 also will preclude the possibility of Clarksburg VAMC purchasing services from West Virginia University's Ruby Memorial Hospital.

The background for this issue indicates this proposal evolved due to a funding shortage in the State, and particularly West Virginia University (WVU). WVU felt that a special grant for a demonstration project to provide care in West Virginia University's Ruby Hospital at Medicare DRG rates would provide quicker care closer to home for West Virginia veterans, (to keep it from being conceived of as being "mainstreaming," VA doctors would provide the care at WVU).

The proposed pilot project would increase the cost of care for the affected veterans. Care provided by the VA is cost effective due to numerous economies of scale including sharing of specialized services such as those provided by VAMC Pittsburgh to West Virginia veterans.

WEST VIRGINIA NATIONAL CEMETERY

SENATOR BYRD: I am seriously concerned about further delays in the construction schedule for the new West Virginia National Cemetery, for which I secured an earmarking of $1.75 million in appropriations in FY 1984 and 1985.

The cemetery site, which includes 58 acres, was consecrated on October 19, 1985, during a ceremony at which I had the honor to serve as the principal speaker. On September 27, 1987, I dedicated the first phase of the cemetery which included 3.5 acres for a burial area, site utilities, and site work, for the upper committal service shelter. Phase two construction includes an administration/maintenance building, two committal service shelters, site work, utilities, and landscaping.

The phase II project was scheduled for completion in December, 1989, a date which was subsequently changed to spring, 1990. I was advised in a letter dated April 2, 1990, from the Director of the National Cemetery System of the Department of Veterans Affairs, that a construction contract is expected to be awarded June 15, 1990, and completion of construction is now projected for April 10, 1991, if negotiations proceed without conflict. On May 4, 1990, the Department indicated: that the contractor has transmitted the proposal; that the proposal is being reviewed by the VA; that negotiations will begin Monday, May 7, 1990; that the construction contract would be awarded at the end of June -- two weeks later than the June 15 date specified in the April 2 letter -- and that construction would be completed by April, 1991.

I am again disappointed about these lengthy delays and the possibility of further delays. Please provide for the record an up-to-date schedule including significant milestone events leading to the completion of this project and elaborate on the progress being made.

May I have your assurances that you will monitor this project carefully so as to preclude any further delays?

ANSWER: The current schedule is as follows:

VA Contract Award: 05/31/90A
SBA Reviews/Signs Contract: 06/08/90A
Notice to Proceed: 06/20/90
Complete Construction: 05/13/91

The VA's Office of Project Management will, along with the Contracting Officer and Engineering office at the Clarksburg Medical Center, monitor the progress of the construction contract to preclude any controllable delays.

BECKLEY VA MEDICAL CENTER

SENATOR BYRD: What is the latest status of the $15.7 million clinical addition project at the Beckley, West Virginia VA Medical Center? The FY 1989 budget included, at my request and at the urging of the Committee as expressed in language which I secured in the committee reports for the previous two years, an amount of $15.7 million for this priority construction project. An architectural/engineering contract was awarded on September 23, 1988. In testimony during the April, 1989 Senate Appropriations Committee hearings, the VA indicated a projected construction completion date of October, 1991.

Please update the status of the project including anticipated significant milestone events leading to the completion of this project. The response should include, but not be limited to, anticipated dates for the contract award, construction completion dates, dedication, and occupancy.

ANSWER: The current project schedule is:

Issue Invitations for Bids (IFB)	7/90
Construction Contract Award	10/90
Construction Completion	10/90

Dates for the dedication and full occupancy for the new clinical addition have not been established at this time.

SENATOR BYRD: What are the specific dates contemplated for the August groundbreaking?

ANSWER: The groundbreaking is currently scheduled for the Fall 1990. No specific dates have been established until a realization of a construction contract award becomes more evident.

BECKLEY VA MEDICAL CENTER LAND ACQUISITION

SENATOR BYRD: In the Senate report accompanying the FY 1990 VA, HUD-Independent Agencies Appropriation bill, the Committee urged the VA to purchase a parcel of land adjacent to the Beckley VA Medical Center. This parcel of land is the only undeveloped land adjacent to the hospital and its purchase would provide the Federal Government with the flexibility of using it in the future.

In a letter to me dated March 30, 1990, you indicated that the Mid-Atlantic Region endorsed a local recommendation to explore the feasibility of acquiring the subject property and that this adjacent property would provide a desireable location for siting any future structure such as a Nursing Home Care Unit.

Please provide for the record the current status of the VA's review of the need for available land adjacent to the Beckley, West Virginia VA Medical Center. When do you contemplate purchase of the land and what are the significant milestone events leading to the purchase?

ANSWER: The parcel of the undeveloped land adjacent to the Beckley VAMC has been identified and reviewed for its possible use for parking by the facility. The Clinical Addition project currently under construction, however, has included adequate parking in the scope of the project. The parcel of land under consideration, while adjacent to the Medical Center, lies at the bottom of a 50 foot bluff from the Medical Center and is, therefore, not functionally appropriate as a possible location for other clinical or support services.

SUBCOMMITTEE RECESS

Senator MIKULSKI. The subcommittee, however, is going to stand in recess until May 15 when we will take testimony from congressional and other public witnesses on the fiscal 1991 budget. That hearing will be held in S-138.

Mr. DERWINSKI. Thank you, Madam Chair.

[Whereupon, at 11:45 a.m., Thursday, May 10, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

WEDNESDAY, MAY 23, 1990

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, DC.

The subcommittee met at 2:33 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Garn, D'Amato, Grassley, and Nickles.

FEDERAL DEPOSIT INSURANCE CORPORATION

STATEMENT OF L. WILLIAM SEIDMAN, CHAIRMAN

ACCOMPANIED BY:

STAN POLING, DIRECTOR OF ACCOUNTING SERVICES AND INTERIM DIRECTOR OF FSLIC OPERATIONS

RUSSELL CHERRY, DIRECTOR OF BUDGET AND CORPORATE PLANNING

OPENING REMARKS

Senator Mikulski. The subcommittee will come to order.

Today the subcommittee meets to review those appropriations within its jurisdiction related to the savings and loan industry.

Our first witness is Mr. William Seidman, Chairman of the FDIC. It is the FDIC which has been tasked with managing and liquidating the 200-plus S&L's that failed prior to 1989.

For those who might wonder what the Appropriations Committee is doing in this situation, it is our job to fund, through the FSLIC resolution fund, the appropriation that was designed to supplement other revenue-producing techniques to deal with the 200-plus S&L's that failed prior to 1989. Any shortfall to meet the obligations of the fund are to be met by an appropriation through this subcommittee. S&L's that failed after the passage of FIRREA are handled differently. We have some very serious questions to go into.

One of the key decisions that we will have to make is do we continue to give a blank check or an open-ended appropriation of such sums as being necessary; or should we provide just the money that is being asked for by the administration, and if it costs more, follow with a supplemental. We are going to ask you for your thoughts and analysis on this.

The subcommittee review of these pre-1989 cases takes place during the midst of a great debate over the future of the S&L industry. The savings and loan scandal of the 1980's will go down as the worst financial mess in the Nation's history.

The cost of bailing out this industry has reached calamitous proportions. GAO now puts the price tag at $325 billion and growing. It has become so expensive that it has forced the President into a budget summit with the Congress without any preconditions. I know our able ranking minority, Senator Garn, has spent the whole morning listening to Secretary Brady give new estimates of the bailout. I filled in for Senator DeConcini at the Treasury, Post Office Subcommittee and listened to Richard Darman talk about the budget summit. I asked him his ideas on paying for this with, for example, a surcharge on corporate or individual taxes. I am not advocating that action, but there doesn't seem to be any real movement in the area as to how to pay for this.

We know it is not the FDIC that caused the S&L problem we must face, but at the same time, however, it is this subcommittee's responsibility to guarantee that the FDIC's course of action on these pre-1989 cases is fiscally prudent and in the best interest of the American taxpayer.

For fiscal year 1990, this subcommittee gave the FSLIC resolution fund a 1-year indefinite appropriation. At that time, FDIC estimated that only $1.8 billion in appropriated funds would be needed and that the other money would come from other sources, such as selling bonds.

However, as we approach the end of this fiscal year's third quarter, FDIC says the 1990 price tag will be $5.2 billion. This is a jump of 190 percent over last year's estimate, or $3.4 billion. That is a whopper of an underestimate.

As a result of this wild cost escalation, this Senator is concerned about providing the FSLIC resolution fund with the same kind of blank check for fiscal year 1991.

Make no mistake about my intent and the intent of this committee. We will support the President of the United States and our Government in providing all necessary appropriations to cover depositors and creditors having an interest in the S&L's now within the FSLIC resolution fund. We will meet our obligations, but we will, at the same time, require public accountability from this administration about the cost to the taxpayer in this obligation.

So, with these thoughts in mind, we will look forward to the testimony of Mr. Seidman.

INTRODUCTION OF SENATOR GARN

I turn to my ranking minority to see if he has an opening statement.

Senator GARN. Let me simply say that I do not know what I have done to deserve 4 hours of listening to the RTC Oversight Board, all of them, which just ceased about 40 minutes ago, and then have to come to listen to my friend, Bill Seidman, on the same subject. I do not know who planned the hearings the same day. Obviously, after spending 4 hours talking about the size of the problem, I would only comment briefly because my positions are so well known after talking about this for the last 6 years of being intimately involved being on the Banking Committee.

REVISED ADMINISTRATION ESTIMATES

I would repeat the general consensus of that particular meeting. The revised estimates by the administration are that the cost will be from $82 billion to $132 billion, in that range. The reason they are giving a range is because there has been such an insatiable desire by the press and critics to always pick the highest figure. I know my colleague here has the Washington Post. "Administration Estimate on S&L Bailout Skyrockets." That makes big headlines, and there is a lot of talk from members of both sides of the aisle and the committee about how fun it had been the last few years to always take the highest estimate and that not once could any one of us ever remember seeing a report in the press that said a lowest possible estimate will be this. That has never occurred.

The point that Mr. Seidman and Mr. Greenspan have made many times over the years—and I used to give a standard speech that I have quit giving because it does not do any good, is that for the last 5 years, while we have held endless hearings, and how fun it is to have the big headline on the size of the problem, some of us emphasize it would be much more important to start solving the problem than argue about the size of the whole because the smallest size of the whole is incredibly large.

I likened—and poor Bill has had to hear me say this before, that if you have somebody who is bleeding to death from an artery, rather than trying to measure the amount of blood flow and how fast the hemorrhage is, you put a tourniquet on it, and if you put it on too tight, you loosen it; if you put it on too loose, you tighten it, but get something done. Unfortunately, we have argued about the size of the problem for 5 years and only now are finally beginning to do something about it.

I would suggest even now, after 4 hours of that hearing, that the important thing is that we move ahead with the resolution of these cases as rapidly as possible, provide the money that is necessary for the regulators to do their job and for the Justice Department to prosecute those who have been involved in fraud and should be sent to jail, rather than having fun with the big headlines.

Now, where GAO comes up with those estimates—you can play games with figures but, interestingly enough, when I was giving the speeches back in 1986 trying to get the $15 billion FSLIC recap passed, GAO was using a different method for calculation. They were looking at current losses, and their high estimates at that time were $25 billion. Well, now they are trying to get on the other side of it so if they are criticized, they will be criticized for being too high rather than too low. I don't know. But they are including every conceivable amount of interest over a 30-year period, every possible worst case scenario to arrive at those numbers from $350 billion to $500 billion.

Now—and again, I am quoting Bill Seidman and Chairman Greenspan and testimony over a long number of years, the only way that you could possibly come up with an accurate estimate of these costs is if you could tell us what the prime rate will be every month for the next 30 years; or, what your recovery will be, unless we can be told what the real estate market will be like in various areas of the country.

So, I do not mean to take a lot of time, Madam Chair, but the point I wish to make is that Mr. Seidman and everybody else last summer made the best estimates that they could come up with at the time—and they were certainly subject to change and could be dramatically higher depending on what the real estate market was like and what interest rates were like. Well, unfortunately, interest rates have not gone down, and unfortunately the real estate market is worse around the country.

So, I do not know that there is any useful purpose in GAO to scare people at $375 billion to $1 trillion. What is important is we start doing something about it as rapidly as we can.

I compliment you, Mr. Chairman, for the tough task you have over the next couple of months, a very ambitious task to close down as many of these institutions as you possibly can. I am satisfied—and I have been one who has been very critical of the RTC and the speed of movement since last July, but I am satisfied now that the mechanisms are in place and the regulators are moving to squeeze that tourniquet as tight as they can.

But I would hope that is what this subcommittee would look at is how we can best give Mr. Seidman and the other regulators in the administration the ability to do the job as rapidly as they can rather than spending 4 hours, as we did this morning, primarily debating about the size of the problem. If you take the lowest estimate of anybody, the most conservative estimate, it is a horrible problem and burden for the taxpayers of this country, and we ought to get on with the business of solving it as rapidly as we can.

Thank you, Madam Chair.

Senator MIKULSKI. Thank you.

INTRODUCTION OF SENATOR NICKLES

Senator Nickles, do you have an opening statement?

Senator NICKLES. Yes, Madam Chair. I will be brief.

I too wish to welcome Mr. Seidman who has had, as I have stated before, one of the most difficult, if not probably the most difficult, job in Government over the last couple of years. I commend him for his efforts. I hate to see him leave that post in the future. His experience is invaluable. But the task before us is great and it will continue to be great for some time.

I might just make a couple of very general comments, Madam Chair, one dealing with RTC. There is certainly a lot of concern in our neighborhood about the value of properties that will be sold, particularly concern about the stated policy that a significant percentage of those properties might be sold as low as 30 percent below the appraised value. At the same time, I see my friend, Senator D'Amato from the Northeast—there is a real concern not just in Oklahoma but also in the Northeast and other places dealing with the credit crunch. Are the regulators tightening up in too many areas to where good, viable projects cannot get credit?

I heard my colleague and friend from Utah say well, let's close down as many of these institutions as necessary. I would also say that I have a concern that maybe RTC is going to be going in and closing institutions where it might be less costly to have a different type of an arrangement, maybe similar to what you have done with many of the banks, such as purchase and assumptions and other arrangements.

I hope that we will learn from many of the bank closings, many of which you have administered in my State. You have handled a lot of those quite well in a way that has not only protected depositors, but also I think minimized the loss to FSLIC. I would hope that we would do the same thing or RTC would do the same thing.

I am concerned about one in my hometown, Heartland Federal. Word just got back to me that it would be closed. Others have told me that there are available buyers out there, and that it would be a less costly procedure to follow if we did something similar to what you have done with the banks in the past. As all my colleagues I am sure do, I want to minimize the cost to the Federal Government. Certainly if you can do the purchase and assumption arrangements, instead of just closing down some of the institutions, if it would save money, I would hope that we would pursue that.

I also would ask a question—I have had people mention it as recently as today—about articles in the paper discussing the decline in value of the trust funds under FSLIC. Is there a problem? Are we looking at a problem? I would like to hear the Chairman's remarks on that with the value of the funds reportedly somewhat on the decline and the liabilities still very large in relationship to the assets.

Thank you, Madam Chair.

INTRODUCTION OF SENATOR D'AMATO

Senator **Mikulski**. Senator D'Amato?

Senator **D'Amato**. Madam Chair, I am only going to ask that I might be permitted to submit a statement for the record and make an observation if I might.

Senator **Mikulski**. Without objection.

Senator **D'Amato**. I do not have the time to stay to ask some questions.

REGULATOR FLEXIBILITY

But it seems to me, Bill, that it was a very real question—and I know Secretary Brady, when I raised it with him today, seems not to want to address it, presumably for fear of opening up FIRREA. But it seems to me that in at least four specific examples, we, the Congress, passed some legislation which gave little, if any, flexibility to the regulators and to the Office of Thrift Supervision. You have been the only voice to date that has indicated that possibly we should make some revisions is this area of loans to one borrower.

We have a good, sound builder and a good, sound bank, who are now told to cease and desist. The builder has foundations in or he has a construction mortgage, and he cannot go ahead. Now we imperil the operation of that bank unnecessarily and that builder. I am not suggesting that this is the case all over or that it does not make sense to have this rule, but it would seem to me, giving the regulators a time by which to implement it and not to be faced with this. I have heard, oh, they are looking at this, they are looking at this. Well, that does not help the bank or that builder who has this problem.

Then we can look at the area of supervisor goodwill. We have a perfectly run bank, a good bank, with good management and good practices undertook the salvation of some banks that were under water. Now you combine them and their assets. You wipe out the goodwill, and now you have a failed institution. Now, if that bank has good management, it seems to me it should be permitted to continue if there is a hope that it can work its way out instead of just thrusting it into RTC's hands and now the taxpayers have a liability.

There are about three or four other examples.

And I thank the Chair for their patience.

Bill, maybe you would at some point in time, if not at this hearing—I have a 3 o'clock that I have to get to, but set the record straight as to where you think OTS should have additional flexibility. I have to tell you it was very frustrating, Madam Chair, to have Treasury and others lined up and saying, in essence, oh, everything is well. We do not need any additional flexibility. Well, they are not in the real world. They absolutely do not know what is happening then if that is the story that they parrot to us. My God, they are just absolutely wrong and they are going to cost the taxpayers billions more with this kind of attitude. You, who have been the one person who has been willing to stand up, might spell out, for this committee or for this Senator at a future time, some of the things you think they might do or need.

Thank you, Madam Chair.

Senator MIKULSKI. Mr. Seidman, would you please go ahead with your testimony.

Mr. SEIDMAN. Thank you, Madam Chair and members of the subcommittee. It is a pleasure to present the fiscal year 1991 budget estimates for the FSLIC resolution fund. With me today are Stan Poling on my left, who is the Director of the Division of FSLIC Operations, and Russ Cherry, who is the Director of our Budget Office.

BACKGROUND ON THE FSLIC RESOLUTION FUND

Under FIRREA the FDIC's FSLIC resolution fund is the vehicle for liquidating the remaining obligations of the former Federal Savings and Loan Insurance Corporation. These obligations primarily involve payments on FDIC contractual commitments made in prior years to assist acquirers of failed institutions.

Following passage of FIRREA, the administration proposed, and the Congress enacted, a fiscal year 1990 current indefinite appropriation for the FSLIC resolution fund. In fiscal year 1991, the administration is seeking a continuation of this type of appropriation.

Under FIRREA, the Congress authorized "such sums as may be necessary" whenever funding from other sources is insufficient to meet the obligations of the fund. For fiscal year 1991, the FDIC now estimates the funding requirement to be about $4 billion. However, as I will cover, material uncertainties exist in quantifying payments for assistance agreement obligations.

The assistance agreement obligations were entered into by the former Federal Home Loan Bank Board, as the operating head of FSLIC, to facilitate the acquisition of failing thrifts.

An assistance agreement is a contract between the resolution fund and an acquirer. The contract specifies procedures and actions the acquirer must take prior to incurring major expenses or losses that are to be reimbursed. Typically these agreements would include some, but not all of the following provisions: payment in cash or with notes to cover all or a negotiated amount of the negative net worth of the failed institution; capital loss coverage on covered assets; yield subsidies on covered assets; indemnifications for legal expenses; loss sharing arrangements; gain sharing arrangements; tax benefit sharing provisions; buyout options under which the FDIC may elect to purchase covered assets; and warrants which entitle the resolution fund to share in any increase in the value of assisted thrifts.

FSLIC resolution funds are to be obtained from the following sources in the listed priority: income earned on the resolution fund assets; liquidating dividends and cash from the receiverships; borrowings by FICO; excess SAIF premiums through December 31, 1991; and direct payments from the Treasury. The FDIC has been informed that no new FICO borrowings should be expected.

FDIC ESTIMATE OF FRF COSTS

As of December 31, 1989, the FSLIC resolution fund has liabilities of $64.9 billion. That is the estimated total amount that will be required over the life of the contracts that were signed by the former bank board. This includes promissory notes of $19.4 billion, asset loss coverage of $29 billion, estimated future interest payments on promissory notes of $16.1 billion; and $0.4 billion in miscellaneous other liabilities.

An initial strategic plan and specific goals have been established to provide direction in managing these liabilities. The key element is completion of the opening inventory audits for all the assisted transactions. When we took over these institutions, there simply was not a sound audit base. These audits determine the negative net worth of the failed institutions and define the inventory of assets covered under the assistance agreements. All but 6 of the 191 audits are completed, with the remaining 6 not to be completed until late summer.

We now estimate that the FSLIC resolution fund costs will be further adjusted upward. An additional cost of $1.9 billion was already reserved for at December 31, 1989.

There are major uncertainties that could impact on the funding needs due to a number of factors. These include the level of interest rates, yield payments on the $35.8 billion of covered assets and on the $19.1 billion of notes are variable and tied to regional costs of funds. For example, a 1-percent increase in rates results in a $200 million additional cost on the note portfolio alone.

Other factors include market for real estate and loan portfolios, the viability of assisted thrifts—that means their ability to operate without losses and the recommendations of the RTC at the completion of the congressionally mandated review of the 1988 deals. This could call for substantial near-term funding increases to reduce long-term costs and FICO borrowings if they are to be used.

In fiscal year 1990 we will require an estimated $5.2 billion from Treasury, and we estimate that for fiscal year 1991, we will need $4 billion. Again, of course, that is subject to the various factors which I have just mentioned.

PREPARED STATEMENT

Our written testimony includes schedules on the source and use of funds for 1990 and 1991 and projections through 1996.

In summary, Madam Chair, we would very much appreciate your continued support for the current indefinite flexible funding.

This concludes my prepared statement. I will be happy to answer questions.

[The statement follows:]

STATEMENT OF L. WILLIAM SEIDMAN

I. Introduction

Madame Chairman and members of the Subcommittee, it is a pleasure to appear before you today to present the FY 1991 budget estimates of the FSLIC Resolution Fund (FRF). As an integral part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the FRF is the vehicle for liquidating the remaining obligations of the former Federal Savings and Loan Insurance Corporation (FSLIC). This principally involves payments on FSLIC contractual commitments made in prior years to financially assist acquirers of failed thrift institutions.

Following passage of FIRREA, the Administration proposed and the Congress enacted a FY 1990 FRF appropriation that was current, indefinite in nature. We support continuation of this type of appropriation because of the variable components of the assistance agreements funded in part by this appropriation. Estimating budgets for this program is an imprecise science at best.

In FY 1991, the Administration is seeking a current, indefinite appropriation to pay for the shortfall between FRF funding sources and the estimated uses of those funds. Under FIRREA, the Congress in Public Law 101-73 authorized "such sums as may be necessary" whenever FRF funding from other sources is insufficient to meet obligations outlined for the fund in that legislation. For FY 1991, the Federal Deposit Insurance Corporation (FDIC) now estimates the shortfall to be around $4 billion. However, material uncertainties exist principally in the area of quantifying payments for assistance agreement obligations, due primarily to the variables of interest rates and real estate values. For this reason, the current, indefinite appropriation is essential to avoid the possibility of a default on FRF obligations later in the fiscal year.

We will discuss the nature of the FRF, the sources and uses of funding estimated for the current year and the budget year under review. Some of the management issues, techniques, and problems that we and the Congress face until all FRF assets and liabilities are disposed of will also be addressed. We ask your support in obtaining the appropriation requested in a current, indefinite form.

II. Background

The assistance agreements that are obligations of the FRF were entered into by the former Federal Home Loan Bank Board (FHLBB) as the operating head of the FSLIC. Assistance transactions were used to facilitate the acquisition of failed thrifts. Transactions were executed pursuant to Section 406(f) of the National Housing Act, which provided that assistance could be provided to the extent that it was determined to be a less expensive means of resolution than liquidation. In providing assistance, the FHLBB attempted to introduce new capital and competent management, as well as attain objectives such as consolidating the industry and reducing the cost of funds. Another significant consideration was conserving the FSLIC's limited cash.

In sum, an assistance agreement is a contract between the FRF and an acquirer which specifies procedures and actions the acquirer must take prior to incurring major expenses or losses that are to be reimbursed by the FRF. Typically, these agreements would include some, but not all, of the following provisions:

- Payment in cash, or with a note, to cover all or a negotiated amount of the negative net worth of the failed institution(s);

- Capital loss coverage which provides payment for the difference between book value and net sales proceeds on "covered assets." The amount and nature of covered assets is negotiated in each agreement;

- Yield subsidies, which ensure a defined level of return on covered assets;

- Indemnifications to the acquirer for legal expenses in connection with lawsuits against the failed institution or other contingencies;

- Loss-sharing arrangements in which the acquirer bears a percentage of loss upon disposition of covered assets;

- Gain-sharing arrangements, in which a percentage of gain realized on the sale of covered assets above some benchmark, is provided as an incentive to the acquirer to obtain the maximum price for covered assets;

- Tax benefit sharing provisions that arise from the acquirers' use of preacquisition net operating losses (NOLs) as well as other tax features of the agreements.

- Buy out options under which the FDIC may elect to purchase covered assets;

- Warrants which entitle the FRF to share in any increase in value in the assisted thrift. In some instances, this also may include sharing in earnings;

- Mark-to-market coverage which may reimburse the acquirer for the difference between book and fair market value of remaining covered assets when the agreement terminates or for goodwill established for assets that are not covered.

III. Basis of FRF Authority

Section 215 of FIRREA amends section 11 of the Federal Deposit Insurance Act to establish the FRF and provide for its management and separate maintenance by the FDIC. Generally, all assets and liabilities of the former FSLIC were transferred to the FRF. This includes all liabilities arising under the financial assistance agreements and all FSLIC-related litigation.

FRF funds are to be obtained from the following sources in the listed priority: income earned on FRF assets;

liquidating dividends and cash flows from receiverships; borrowing by the Financing Corporation (FICO); excess SAIF premiums through December 31, 1991; and direct payments from the Treasury. The FDIC has been informed, however, that no new FICO borrowing should be expected. The FRF is to be dissolved upon satisfaction of all liabilities and sale of all assets.

IV. Description of FRF Tasks and Responsibilities

The FDIC has a very substantial job in managing the liabilities of the FRF. As of December 31, 1989, the FRF represented a liability of $64.9 billion. This includes promissory notes of $19.4 billion; asset loss coverage of $29 billion; estimated future interest payments on promissory notes of $16.1 billion; and $0.4 billion in miscellaneous other liabilities.

There are 202 assistance agreements. Each has unique contractual features which must be taken into account in managing the acquirers' efforts. There is a large volume of complex litigation associated with these cases. In addition, there are many interrelationships, primarily as a result of participation loans, between assets covered by these agreements and other financial institutions.
Exhibit 1 shows the location of assisted institutions by state.

V. Management Strategy for Program Execution

An initial strategic plan and specific goals have been established to provide direction in managing this liability at the least cost to U.S. taxpayers. These are included in Exhibit 2. This process will involve setting specific asset disposition targets for each assisted institution. Mechanisms for monitoring progress toward meeting these targets are in place and will be refined as needed. On a portfolio basis, this plan envisions a $15 billion decline in covered assets by December 31, 1992.

A key element in gaining control and quantifying costs is completion of opening "inventory" audits for all assisted transactions. These audits determine the actual negative net worth of the failed institutions and define the inventory of assets covered under the assistance agreements. At the time the FDIC assumed responsibility for the FRF, 191 audits were outstanding with a few not even started.

We are pleased to report that this task is nearing completion. Six remaining audits, which involve massive records reconstruction, will not be completed until the end of the summer. As a result of this effort, we estimate that FRF costs will be further adjusted upward for additional loss by approximately $500 million. Additional cost of $1.9 billion were already reserved for in December 31, 1989, and adjustments were made to FRF reserves.

In addition, the Division of FSLIC Operations (DFO) is working diligently to respond to inquiries and requests from the teams conducting the Resolution Trust Corporation's (RTC) review of 1988 assisted transactions. The findings from this Congressionally mandated review are to be presented to Congress in August. Recommendations could suggest very substantial, near-term funding increases to reduce long-term costs. For example, if cash was available to the FRF, the large note portfolio might be paid off early with tremendous interest savings.

DFO recently has been enhanced with the addition of 70 positions. The Division now has a personnel ceiling of 278. A current organizational chart is attached as Exhibit 3. This additional staffing will provide resources for more in-depth, on-site monitoring of institutions receiving assistance and will result in reduction of costly contractor support that has been utilized in monitoring these transactions. We expect a reduction of one-third in our contracting costs with associated cost savings of approximately $7 million. In addition, more emphasis is being placed on liaison with supervision staff, both within the FDIC and with the Office of Thrift Supervision (OTS).

VI. Funding

There are major uncertainties that could substantially impact on actual funding needs. The estimates of cost and the timing of outlays could vary substantially due to a number of factors, most notably:

o Interest rates -- yield payments on the $35.8 billion covered asset portfolio and on the $19.1 billion note portfolio are variable and tied to regional cost of funds indices. For example, a one percent increase in rates results in a $200 million additional cost on the note portfolio alone;

- Markets for real estate and loan portfolios. As you are well aware, the portfolio of real estate assets covered by assistance agreements tends to concentrate in depressed areas, especially the Southwest;

- The viability of the assisted thrifts is another issue that will affect cost, not only of the FRF, but also of the RTC. Discussions with the OTS indicate that 40 assisted institutions have either been taken into conservatorship or may be candidates for RTC's conservatorship program this year. A wide range of other issues such as the actual extent of negative net worth of the institutions that failed, undisclosed liabilities, the outcome of thousands of lawsuits against the failed institutions, the recommendations of the RTC upon completion of its required review of the 1988 deals, as well as toxic waste and environmental problems with some assets, also will factor into the final cost.

Another source of uncertainty is FICO, which is an alternative source of funding to the FRF. As you know, FICO was chartered as a mixed ownership Government corporation pursuant to the Competitive Equality Banking Act of 1987 (CEBA). FICO is managed by a three-member Directorate, comprised of the Director of the Federal Home Loan Bank Systems' Office of Finance, a permanent member, and two Federal Home Loan Bank Presidents, who are appointed for 1-year terms.

FICO's sole purpose was to function as a financing vehicle to recapitalize the FSLIC. FICO issued 30-year bonds to the investing public and transferred the bond sale proceeds to FSLIC in exchange for FSLIC capital stock. FIRREA contains provisions which eliminate the possibility that the FSLIC capital stock issued to FICO will ever be redeemed. A total of $8.17 billion of FICO bonds was issued between October 1987 and September 1989.

With the authority provided through the appropriation mechanism, the Treasury Department has preferred direct Treasury financing as an alternative to FICO as the yield on past FICO issues has been priced at 55 to 109 basis points above comparable term U.S. Treasury bonds. The more costly financing reduces the net amount of insurance assessments otherwise available to FDIC from thrift institutions.

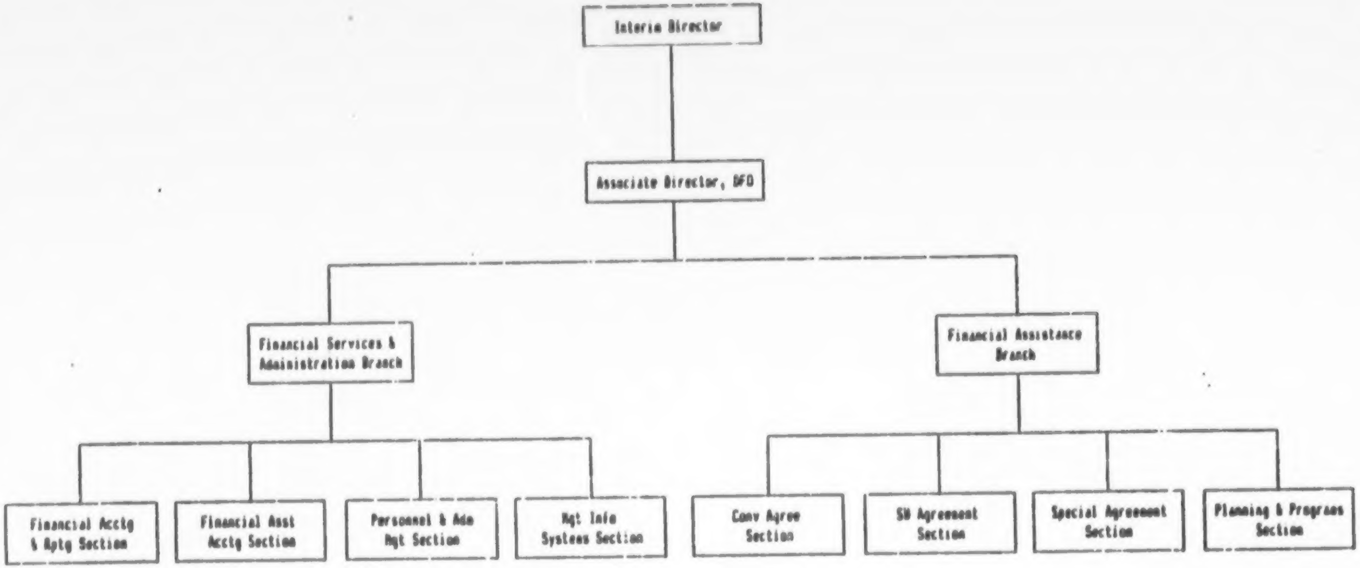
In FY 1990, the FRF will require an estimated $5.2 billion from Treasury. In FY 1991, the FRF will require an estimated $4 billion. Exhibit 4 includes schedules on sources and uses of funds for 1990 and 1991. Projections through 1996 are presented in Exhibit 5. These longer term projections will be subject to very substantial revision as a result of the factors we have just reviewed for you.

In summary, we are working hard to effectively manage the assistance agreement liabilities that create the need for this appropriation. We very much appreciate your understanding of this program and your continued support for the "current, indefinite" flexible funding that is essential to minimizing overall costs.

This concludes my prepared statement. I would be happy to respond to any questions that you may have.

EXHIBIT 1

DIVISION OF FSLIC OPERATIONS


Interim Director
Associate Director, DFO
Financial Services & Administration Branch
Financial Assistance Branch
Financial Acctg & Rptg Section
Financial Asst Acctg Section
Personnel & Adm Mgt Section
Mgt Info Systems Section
Conv Agree Section
SW Agreement Section
Special Agreement Section
Planning & Programs Section

	WASH	DALLAS	HOUSTON	IRVINE
Auth :	163	56	23	31
On Brd:	156	23	9	10

EXHIBIT 2

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

MISSION STATEMENT AND POLICY GUIDANCE FOR ADMINISTRATION OF ASSISTANCE AGREEMENTS UNDER THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION (FSLIC) RESOLUTION FUND

MISSION STATEMENT

With respect to assistance agreements under the FSLIC Resolution Fund, the FDIC prudently administers and manages financial assistance agreement cases to minimize the costs associated with the liquidation of the acquired institutions' covered asset portfolios. The FDIC manages its duties and obligations under these agreements as a total portfolio to minimize any adverse effects that asset disposition and inter-institution legal actions may have upon (1) maintaining asset values, (2) ensuring Acquiring Association accountability (3) supporting the regional and local economies, and (4) maintaining public confidence in Federally insured institutions

GOALS AND OPERATING PRINCIPLES

The FDIC has identified the following major goals:

1. Manage the acquirers' disposal of covered assets within the term of the assistance agreements to ensure orderly dispositions at minimum cost to the FRF while maximizing asset value.
2. Identify and implement recommended ways to reduce the cost of assisted transactions and the management thereof.
3. Effect the permanent resolution of the stabilized institutions during 1990, providing new management, capitalization, and a lower estimated cost to the FRF.
4. Establish operational relationships with outside entities which affect the responsibilities of the FDIC as manager of the FRF and the ability of assisted institutions to fulfill their contractual obligations to the FRF under the assisted transactions.
5. Improve the process of monitoring the Associations' asset management performance and compliance with the terms, conditions, and standards of the assistance agreements.
6. Develop and implement an enhanced management information system that will be an effective resource in the management decision making process, especially covered asset disposition tracking.

7. Provide adequate staff resources for the efficient administration of the assistance agreements and improve internal controls necessary to support a larger more decentralized operation in DFO.

In developing FDIC's policies for administering the assistance agreements, there are several principles that will serve as operational guidelines that should be apparent in every aspect of operations. They are designed to demonstrate the FDIC's commitment to carrying out prudently the significant responsibilities entrusted to it. These principles include:

- Accountability: In carrying out its responsibilities, the FDIC is aware of its fiduciary responsibilities to the taxpayers. This concept translates into how the FDIC applies proven management practices, attention to details and employment of sound business judgement with a view toward the impact its activities may have upon the financial and real estate communities. In the achievement of its mission, the FDIC will remain fully accountable to those relying upon its management decisions.

- Cost Minimization: Every FDIC activity should be sensitive to the federal cost-conscious environment. This translates practically into diligence in ensuring it carries out its responsibilities in the manner that provides the least cost and liability to the taxpayer, within the constraints of the assistance agreements.

- Internal Controls: The FDIC will be diligent to ensure that proper controls are in place to avoid any improprieties and to prevent any waste, fraud or abuse. Given the visibility of the assisted segment of the savings and loan industry, it is imperative this theme be actively employed throughout every aspect of the FDIC's endeavors. It translates to compliance with the Federal Managers' Financial Integrity Act (FMFIA), as well as any other applicable OMB or GAO circulars, guidelines or requirements;

- Management Integrity and Conflict of Interest: Given the broad scope and complex nature of FDIC's responsibilities, it is important that there be standards of conduct. This concept of standardization and integrity will include the ethics of employees and contractors, the uniformity of decisions regarding the cases and the attention to conflict of interest provisions in asset management and other important areas, FDIC will take steps to ensure that there is no element of a conflict of interest in carrying out its responsibilities; and

- Information Technology: As the FDIC's responsibilities mature, it will need to enhance the role of information technology in all aspects of its operations. Given the vital role that this component of the FDIC's operations will play, it is necessary that it be stated as an overall operational guideline.

POLICY GUIDANCE

1. BACKGROUND

The FDIC is responsible for administering all assistance agreements and related contracts under the FSLIC Resolution Fund arising from assisted mergers and acquisitions of failed thrifts. Typically, the terms of these assistance agreements range from five to ten years and vary considerably in complexity and degree of standardization. As of January 1990, the FDIC is responsible for administering approximately 200 assistance agreements that provide for oversight and disposition of the failed institutions' covered assets. Included in the FDIC's covered asset oversight responsibilities are approximately $36 billion of covered assets, primarily troubled real estate, real estate loans and investments in subsidiaries.

In addition to the oversight responsibilities for assistance agreements, five of the Southwest Plan institutions were not acquired by private investors. Consequently, these institutions (Stabilized Institutions) are managed by individuals and firms approved by the FDIC. For these institutions, the FDIC is responsible for administering the assistance agreements, overseeing the operations and for affecting a permanent resolution of the institution.

In addition to the administration of assistance agreements, the FDIC is responsible for administration of FSLIC's obligations under the Guaranteed Advance Program and for the administration of Capital Instruments purchased or acquired during the acquisition of thrifts (Capital Instruments include preferred stock, capital and net worth certificates, warrants and subordinated debt). The Guaranteed Advance Program provided needed liquidity at reduced risk compared to market alternatives in the form of advances or loans made to insured members who lack sufficient collateral to secure loans.

2. ASSIGNMENT OF RESPONSIBILITY

The FDIC assigns management authority for the assistance agreements to its Division of FSLIC Operations (DFO). The FDIC is a decentralized organization and, as such, must take steps to ensure its procedures and operations reflect sound and ethical management practices that are adapted to decentralized management. From a policy perspective, this assignment includes the following operational responsibilities:

- Adherence and attention to the Federal Managers' Financial Integrity Act (FMFIA), applicable OMB circulars, as well as GAO and other applicable requirements and regulations;
- Utilization of an independent case assessment approach, where appropriate, to ensure objective, professional review of practices and a strict adherence to sound and ethical actions in the case management and related areas; and
- Assurance that there will be sufficient review of the managerial decisions to ensure integrity. Given the visibility and importance of this program, it is essential that strict attention be given to the vital areas of internal controls and management integrity.

3. ASSIGNED FUNCTIONS

The major functions assigned to DFO are:

a. Management of assistance agreements and oversight and disposition of Stabilized Institutions.

b. Oversight of the management, marketing and disposition of covered assets.

c. Review and coordination of litigation matters, including review and approval of all indemnifications and reimbursements requested by the Acquiring Associations.

d. Periodic projections of future assistance payments and cash flows related to the assistance agreements.

e. Interpretation of Assistance Agreements.

f. Administration of capital instruments purchased or acquired by the old FSLIC to facilitate the acquisition or rehabilitation of troubled institutions.

g. Administration of unique assistance plans to financially troubled institutions, to include such programs as Guaranteed Advances and open institution assistance.

h. Development of responses to Congressional and public inquiries.

4. ROLE OF ACQUIRING ASSOCIATIONS

The assistance agreements provide a framework for the management and liquidation of covered assets, settlement of legal matters and the consolidation of business operations. The guidelines of the agreements help ensure that both DFO and the Acquiring Associations meet their respective responsibilities. While DFO is responsible for ensuring compliance with the contractual terms stipulated within each of these agreements, the Acquiring Associations are responsible for the implementation and management of the individual assistance transactions.

The Acquiring Associations have assumed the responsibility to use their appropriate expertise to manage the resulting business and acquired assets and liabilities in order to:

- Operate a thrift in accordance with applicable laws and regulations;
- Consolidate and reduce operating costs, thereby increasing net profitability; and
- Liquidate or convert to earning assets the non-core business and assets of the acquired or consolidated thrift(s).

Each of the Acquiring Associations is responsible for administering and dealing with all covered assets and liabilities assumed pursuant to the terms of the Acquisition Agreements. Each Acquiring Association is required to employ the higher of the standard of prudent business practice in administering the acquired assets and liabilities or the standard employed in the savings and loan industry in administering similar assets and liabilities. Furthermore, the Acquiring Association is expected to use its best efforts to minimize losses and maximize gains and recoveries for the FDIC and the Acquiring Association.

The Acquiring Association is expected to provide at its own expense the executive and managerial resources, along with adequate supporting staff, to manage and implement the terms of the assistance agreement.

5. COVERED ASSET MANAGEMENT

The DFO oversees the management and disposition of assets related to financial assistance agreements. The following policies relate to covered asset management:

- Asset Disposition Strategy: The Acquiring Associations are required to maximize asset value and thus minimize resolution costs for the covered assets. To ensure attainment of this objective, DFO will utilize a comprehensive asset disposition strategy. This strategy will address issues such as the timing of asset disposition, loans to facilitate financing, market absorption, hold versus sell decisions and the disposition of marketable and non-marketable assets. The strategy will be communicated to all Acquiring Associations and used as a management tool to gauge their success;

- Management Oversight: DFO personnel assure that proposed transactions comply with applicable assistance agreement provisions and represent the most likely alternative available to minimize costs and maximize gains and recoveries. Certain decision making authority is delegated to the Acquiring Associations through specific provisions contained in the assistance agreements. Further authority is delegated through approved business plans, asset plans and collection plans. To assist in this process, DFO has developed expanded asset plan and budget formats and standards to ensure that Acquiring Associations submit documentation suitable for DFO decision making. DFO regularly monitors the Associations' compliance with assistance agreement terms, management processes and standards, and periodically tests specific asset and special reserve account transactions;

- Acquiring Associations' Asset Management Processes: Due to the magnitude of the transactions (both dollar value and number of assets), DFO is dependent on the Acquiring Associations' compliance with prudent asset management processes. Therefore, each Acquiring Association is required to develop and submit written asset management policies and procedures. DFO reviews these policies and procedures and tests for compliance on a regular basis;

- Compliance: DFO utilizes a number of programs to monitor the Acquiring Associations' compliance with the terms, management standards and intent of the assistance agreements. Compliance monitoring activities will include:

    - Case Compliance Reviews: This activity involves the periodic review of a case by an independent group of DFO personnel from another case management section. The case compliance scope will include reviewing the Association's compliance with asset management processes, as well as DFO Contractor and Case Manager compliance with DFO's internal operating policies and procedures;

    - Structured Evaluations of the Association: Periodically the Case Manager and DFO Contractor review individual Association Asset Managers to assess the quality of the Association's asset management, monitor compliance with Association policies and procedures and evaluate the Asset Manager's general and specific management of the assets;

    - Examination Liaison: In connection with examinations by the Office of Thrift Supervision and the FDIC's Division of Supervision, DFO will coordinate additions to the development of the examinations' scope to include special concerns regarding compliance with Assistance Agreements;

  - Special Investigations: Based on findings and conclusions, complaints, and/or general concerns, special investigations (often performed without the knowledge of the Acquiring Associations) will continue to be performed to ensure that the Acquiring Associations are disposing of assets in compliance with the terms and conditions of the assistance agreement for the highest and best price available;

- Assistance Agreement Interpretation: DFO, with the assistance of the Legal Division, is responsible for interpreting the provisions of the assistance agreements. Due to the unique nature of the agreements, resolution of an interpretation issue may result in the development of specific policies or assistance agreement modifications. DFO is developing an assistance agreement issues resolution process for tracking, disseminating and referencing interpretations. Examples of issues include disposition financing, marketing, appraisals, loan participations and management standards.

6. LITIGATION

DFO will monitor all legal proceedings to ensure the Acquiring Associations are using their best efforts to preserve the interests of the FDIC and to minimize costs and expenses in all litigation matters. The Acquiring Associations will also strive to maximize any potential recoveries through pursuit of related claims. DFO will coordinate the approval of all litigation matters with the FDIC's Legal Division. Since indemnification for major settlements requires the Legal Division's concurrence, DFO's role is to analyze and consider the effect of any proposed actions upon the ultimate costs to the FSLIC Resolution Fund.

To facilitate DFO's ability to monitor the status of legal activity, the Acquiring Associations, as directed by the assistance agreements, must submit litigation schedules, plans and budgets on a regular basis. Any expenditure of Acquiring Associations' funds for legal matters that are reimbursable by the FDIC must ultimately be approved by the FDIC, either by written consent of DFO, through the approval of plans/budgets, or the approval of transactions through the Special Reserve Accounts.

DFO has the authority to intervene in the conduct of any litigation matter to protect the FDIC's best interests. More specifically, DFO has the right to:

- Monitor and direct the defense or prosecution of the matter;

- Defend or prosecute the matter with FDIC attorneys; and

- Require the Acquiring Association to assign its right, title or interest in the matter, any defense related to the matter, or proceeds from the matter to the FDIC.

Additionally, the Acquiring Associations must cooperate with DFO in defense or prosecution of legal matters. The Acquiring Associations may also be required to provide DFO with all applicable books, records or other relevant information in its control.

The Acquiring Associations may take immediate action concerning a litigation matter if that action is required to protect the interests of the FDIC and the Acquiring Associations. The Acquiring Associations may take such emergency steps only if it is unable, due to time or other constraints, to obtain verbal or written approval of DFO.

The Acquiring Associations are expected to pursue all related claims and, when appropriate, file actions with respect to potential recoverable claims. These legal actions should be pursued in an effort to reduce or minimize the indemnity payments the FDIC will be required to pay. If necessary, the FDIC may direct the Acquiring Association to pursue or prosecute potential claims. DFO will coordinate with the Legal Division with respect to the assignment of and pursuit of claims acquired through the agreements.

Any significant settlement for a litigation matter must be approved by DFO with concurrence from the Legal Division. DFO will coordinate the approval of settlements in an expedient manner to eliminate any potential economic loss that may result from delays in approval processing.

7. TAX, AUDIT, FINANCIAL MANAGEMENT AND REPORTING

FDIC oversees the following financial areas:

- Tax: Where applicable, the tax-related provisions of Assistance Agreements vary widely and many are technically detailed in nature. Within the framework of each agreement, FDIC's intent is to maximize the U.S. Government's share of net tax benefits. Acquiring Associations are responsible for providing FDIC copies of their tax returns filed with the Internal Revenue Service. Each agreement specifies the information that Acquiring Associations shall submit to FDIC in support of tax-related credits and/or payments to the agency.

- Audits: FDIC has a priority goal to expedite completion of remaining opening-inventory audits of assisted associations. These audits help FDIC to determine negative capital and the inventory of covered assets. FDIC will also periodically initiate compliance audits to ensure that an Acquiring Association's claim for reimbursement and related activities are consistent with the terms of the agreement. Acquiring Associations are responsible for cooperating fully with the auditors and providing on a timely basis such background work papers and schedules as the auditors may require.

- Payment of Claims: FDIC will generally pay all valid and properly documented claims in cash upon receipt, in lieu of accruing such obligations at interest. Where agreements allow, the agency may elect to defer such payments with interest. This option will normally be applied only during periods when the FSLIC Resolution Fund's cost of financing (i.e., cost of U.S. Treasury borrowings), is less than the interest cost to defer payments of claims.

- Reporting: FDIC will maintain a financial reporting system to track the Government's actual and projected costs under the Assistance Agreements. Costs will be separated among a number of individual expense categories. The reporting system will include a variance analysis capability to compare estimated with actual costs. The system will also include cash flow forecasting of the timing and amounts paid under Assistance Agreements. This will assist the U.S. Treasury to minimize its cost of financing funds that are transferred to the FSLIC Resolution Fund.

8. RESOURCES

DFO relies on staff members located in Washington, D.C., and field staff in Dallas and Houston, Texas, and Irvine, California to carry out its oversight responsibilities. In addition, DFO leverages itself through the judicious use of independent contractors to provide specialized expertise.

In carrying out its mission with respect to assistance agreements, DFO has adopted policy perspectives with regard to two important organizational/administrative components:

- Contractors: While currently there is a significant reliance upon contractors to assist DFO in carrying out its responsibilities, DFO envisions this reliance will decrease as its own staff members continue to expand in size and increase in capability; and
- Technology: The development of an accurate and reliable information resources management capability is an important goal for DFO. DFO will place increased emphasis upon this component of its operations to gauge programmatic needs and to assess the efficient employment of resources. While this portion of DFO's capability is still in the early developmental stages, DFO intends to place continued emphasis upon it as a vital component of its operation.

9. MANAGEMENT REPORTING

To properly evaluate and monitor the performance of the Acquiring Associations and to determine the overall performance of the consolidated DFO portfolio, a reliable, accurate management information system is critical. The development of a comprehensive covered asset management and compliance monitoring system continues to be a high priority of DFO. A number of information processes have been, or are being, developed to address those needs.

DFO collects monthly and quarterly Acquiring Association activity data, from which a series of management reports will be generated. This information includes data on covered asset status, disposition activity , submission activity, financial performance, staffing, assistance paid, litigation and consolidation activities. The reports generated provide two levels of management information: general information to track overall asset management progress and specific information to identify potential problems at institutions that may require special action and additional monitoring.

DFO will produce periodic reports on the status of DFO's current caseload, the disposition of covered assets, the Acquiring Associations' relative assistance agreement compliance, the Acquiring Associations' financial performance (e.g. watch list), and corrective actions underway. Reports will also be provided on the status of opening inventory and compliance audits, as well as on total assistance expenditures to date and projected cash flows.

To provide the level of management information necessary for effective reporting and control purposes, DFO requires mainframe support from the FDIC. The current developmental efforts represent interim or prototype processes that are designed to provide the high level information required to manage the assistance transactions over the short-term.

EXHIBIT 3

FSLIC RESOLUTION FUND
ASSISTANCE TRANSACTIONS BY REGION
FOR CALENDAR YEAR 1989

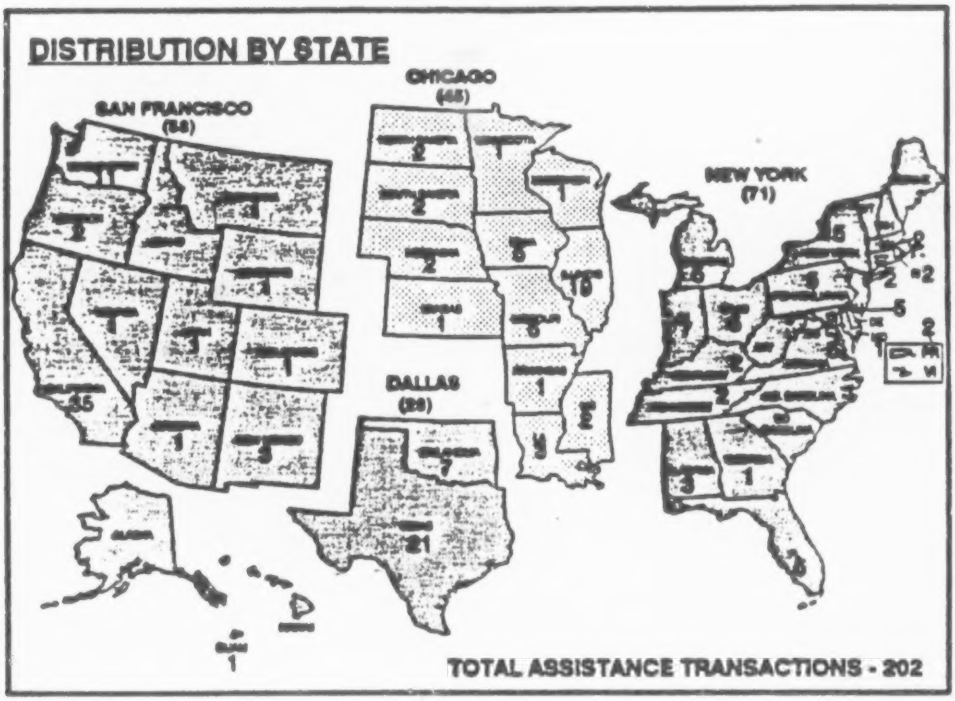

DISTRIBUTION BY STATE
SAN FRANCISCO
(58)
CHICAGO
(45)
NEW YORK
(71)
DALLAS
(28)
35
21
7
15
TOTAL ASSISTANCE TRANSACTIONS - 202

EXHIBIT 4

FSLIC Resolution Fund
Estimated Budgetary Outlays
FY's 1990 & 1991
($ in millions)

Notes	Sources of Funds		FY 1990		FY 1991
1	Thrift Insurance Premiums		0		1,169
2	Receivership Proceeds		859		1,692
3	Sale of Corporate-held Assets		238		334
4	Interest Income on Investments		42		29
5	Other Income		162		125
	Total Sources of Funds		1,301		3,349
	Uses of Funds				
6	Administrative and Miscellaneous Expenses		335		369
7	Repayment of Pre 1987 Notes		4		56
8	Interest on Notes Payable		1,573		1,890
9	Assistance Agreement Payments		5,346		4,741
	Total Uses of Funds		7,258		7,056
	NET BUDGETARY OUTLAYS		5,957		3,707
	FSLIC RESOLUTION FUND CASH FLOWS:				
	Net budgetary Outlays	5,957		3,707	
10	Add: Repayment of Post 1986 Notes Payable	538		293	
	Net Funds Required for Operations		6,495		4,000
	Beginning Cash Balance	1,809		500	
	Minus: Projected Ending Cash Balance	500		500	
	Net Funds Available for Operations		1,309		0
	Funds Required from Treasury		5,186		4,000

Notes to Projected Budgetary Outlays
FY's 1990 and 1991

SOURCES OF FUNDS

1. Thrift Insurance Premiums - Insurance premium estimates are based upon an assessment rate of 20.8 basis points in FY 1990 and 23.0 basis points in FY 1991. Estimates are stated net of deductions for Secondary Reserve offsets, FICO interest expenses and REFCORP principal defeasance. REFCORP principal defeasance requirements may fluctuate pending interest rates and maturity length.

2. Receivership Proceeds - These proceeds are the direct result of income and sales of receivership assets. The proceeds are returned to the FSLIC Resolution Fund by either liquidating dividends or the repayment of secured advances and administrative loans. Estimates are stated net of projected deductions for REFCORP principal defeasance.

3. Sale of Corporate-Held Assets - These amounts represent the projected income and liquidation proceeds to the FSLIC Resolution Fund from assets held in the corporate portfolio.

4. Interest Income on Investments - These amounts are the projected interest income that the FSLIC Resolution Fund will earn on its investments. These investments are primarily Over-Night Treasury securities.

5. Other Income - These amounts include: principal repayments and interest earned on notes, loans and subordinated debentures; capital certificate income; thrift stock income; etc.

USES OF FUNDS

6. Administrative and Miscellaneous Expenses - These amounts include such administrative expenses as payroll, benefits, travel, legal expenses, audit expenses and the cost of managing certain corporate-held assets that are in the process of being liquidated.

7. Repayment of Pre 1987 Notes - Repayments of notes issued prior to 1987 are recorded as budgetary outlays because they were not recorded as outlays in the year issued.

8. Interest on Notes Payable - At the beginning of FY 1990, the FSLIC Resolution Fund had $19.1 billion in outstanding notes payable. Interest expense in most cases is based on regional indices and is paid semiannually.

9. Assistance Agreement Payments - The FSLIC Resolution Fund presently has 202 agreements for which assistance payments are required. In most cases, these payments are for yield maintenance and capital loss coverage.

10. Repayment of Post 1986 Notes - The principal amount of notes issued in 1987 and beyond were recorded as budgetary outlays in the year issued. Thus, their repayment is only cash outflow and not a budgetary outlay.

EXHIBIT 5

FSLIC Resolution Fund
Estimated Budgetary Outlays
FY's 1992 - 1996
($'s in millions)

	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996
Net Budgetary Outlays	4,508	4,556	3,968	3,769	3,496
Funds Required from Treasury	4,705	5,307	5,778	3,847	3,683

BREAKDOWN OF FRF ASSETS

Senator **Mikulski**. Thank you, Mr. Seidman for the testimony.

We are going to function, as best we can, under the 10 minute rule because we are also going to take testimony from the newly appointed inspector general for RTC.

The word "resolution" appears in more places doing more things, and actually that takes me to my first question, Mr. Seidman.

Could you describe briefly the fund in terms of such things as the assets you hold? What is its mix of S&L's that have closed and those that have been transferred to an acquirer and still in operation under an assistance agreement?

Mr. **Seidman**. Madam Chair, are you talking about the FSLIC resolutions or the RTC?

Senator **Mikulski**. The FSLIC. Our hearing today will be limited strictly to the FSLIC resolution fund.

Mr. **Seidman**. Thank you.

Well, as I have said in my testimony, the assets that we are administering cover all the transactions that were completed by FSLIC up to its termination in 1988. As I have said, the assets are primarily covered assets, which means they are assets in institutions which the Government has guaranteed a return on. That is the largest single part of the costs of this operation.

In addition, there are notes which FSLIC has just issued for deficits and we must pay for the interest on those. We must pay for the operating results beyond that. We must pay for legal fees and other things required under the contract. So, the basic assets that we are talking about are the institutions and assets which we are administering which we receive from FSLIC. We have a schedule of those in detail in our testimony.

Senator **Mikulski**. Mr. Seidman, are the assets the fund holds primarily in houses, meaning residential real estate? Are they in various other kinds of real estate? Are they in junk bonds and other investments? Could you break out those kinds of assets and the dollar value for the record?

Mr. **Seidman**. I would like to ask Mr. Poling if he would answer that. He has more of the details.

Mr. **Poling**. We could provide a detailed listing of that, but I can tell you essentially it is in land, commercial-type real estate, but not too much in the way of one to four family residences.

Senator **Mikulski**. Not too much in what?

Mr. **Poling**. One to four family residential mortgages.

The junk bonds have essentially been already liquidated.

Senator **Mikulski**. From what sources do you obtain your operating funds?

Mr. **Seidman**. I gave a list at the start of my testimony, and essentially it comes from the assets which we have, the income on the assets which we have, from other borrowings like FICO, if FICO provides funding, from the sales of assets that are sold, and the remainder comes from the Treasury.

RATIONALE FOR INDEFINITE APPROPRIATIONS

Senator **Mikulski**. I would like to now go into this issue of indefinite versus a sum certain appropriation. You argued in your testimony for the indefinite appropriation. Could you tell me what would be the rationale for not having a sum certain? The thinking being advocated for the sum certain is that, one, we would know what we are appropriating; two, that if additional sums are needed, providing them in a supplemental would be a way of maintaining public accountability and oversight.

Mr. **Seidman**. I think there are two reasons why you ought to consider our request. The first is that we are simply fulfilling contractual obligations of the Government. It is much like any other contractual obligation, Social Security and so forth. The Government is required to pay whatever the obligation is under the contract so that we do not have a choice of paying or not paying. The Government has a contract, and that contract requires that we pay whatever under the contract is due.

Now, we cannot tell what actual amount is due—and that is my second point—until we know interest rates, asset sales, results of operations, and so forth. If we are to have a limited amount and we get to a point where we are out of funds and we have not been able to get a supplemental—and we all know that that can take time—then the Government will be in default on its contracts which it legally owes. It would be much the same as telling Social Security people we have a contract with you, but we are not going to pay you because we do not have any money appropriated. So, we have a contractual obligation, and I do not think the Government wants to be put in a position where they are reneging on the contract.

Senator **Mikulski**. Well, first the appropriation was meant to be supplemental to a variety of techniques to be used. We were never meant to be the anchor, the linchpin, the primary force. It was to be a variety of things, including these FICO bonds. So, we were told the cost was estimated at $1.8 billion, we gave an indefinite appropriation, and the cost ended up to be $5.2 billion.

I understand that was due to the fact of not only wildly fluctuating interest rates or so on, but the decision not to sell FICO bonds. Am I right? So, were your estimates off?

Mr. **Seidman**. Well, the largest single factor was the decision not to use FICO bonds, and that was made because it became evident that FICO bonds were a costly way for the Government to borrow. The Government is borrowing one way or another, and the Treasury made the decision that we ought to save all the money we can and borrow at the lowest rates possible. So, they simply discontinued borrowing at high rates and borrowed at lower rates, thus saving the taxpayers money.

Senator **Mikulski**. So, the use of the FICO bonds is now a dead issue.

Mr. **Seidman**. At this time, it is for all practical purposes, yes.

Senator **Mikulski**. Because they essentially would be sold almost like junk bonds themselves.

Mr. **Seidman**. Well, it is not that bad, but it simply is a higher rate, and there really is no reason for the Government to pay higher rates. That would just cost the taxpayer more money.

Senator **Mikulski**. Coming back to the issue of the fixed appropriation and the fact that more funds might be needed—and we understand, as Senator Garn said in his testimony—fluctuating interest rates and also the continued devaluation of your assets makes estimates difficult. Couldn't you anticipate a shortfall on your outstanding obligations sufficiently in advance to consult with the Congress for a supplemental? Couldn't OMB give you a deficiency apportionment, just as they do now for VA pensions, to cover our FRF obligations?

Mr. **Seidman**. Well, I think it certainly is clearly possible to go that route. I do not want to argue to you that this will be the end of our Government if we do not have what we are requesting. We simply think that given the amounts we are talking about and given the fact that we have a Government contract here that we know we are going to have to pay—this is not a question of controlling expenses by controlling appropriations. Whatever it is, we are going to have to pay because we have a contract.

Given that and given that we can make a pretty good estimate, but we cannot make a totally accurate estimate, it seemed to us that what we were asking for was the most efficient way to handle things without having to go to OMB or deficiency appropriations or lots of other things. If that would save money, I would be all for it, but I do not see how you are going to save any money because we are simply fulfilling a contractual obligation.

FDIC REPORTING ON FRF COST ESTIMATES

Senator **Mikulski**. Well, we intend to meet our obligations. We intend to work with you to meet those obligations. But if we give the FDIC another indefinite appropriation in 1991, what would you propose to the committee in order for us to maintain our necessary oversight in this regard and essentially not provide just a blank check?

Mr. **Seidman**. We would be glad to report to you on a monthly basis or a quarterly basis so you know exactly how we are going and what our current prediction is, which changes as we go along. Obviously then if you thought action was required, why, you could take whatever action is necessary. But we would keep you fully informed of what we were paying and what we expect to pay on a budgeted basis.

INDEFINITE APPROPRIATIONS VERSUS SUM CERTAIN APPROPRIATIONS

Senator **Mikulski**. Now, my last question before I turn to my colleagues here will be—unless we go into a second round—why would an indefinite appropriation be cheaper than a designated amount?

Mr. **Seidman**. Well, I think it would be cheaper because it is simpler. We do not have to go through a whole lot of additional activity, requests, meetings, action by the Congress. It would simply say we are giving you the right to meet the obligations under the contracts that the Government has signed.

Senator **Mikulski**. But an indefinite appropriation will not affect interest rates or the value of those assets.

Mr. **Seidman**. No; it will not. That is why I say it is not the end of the world if we do not get it. We simply think it is the most efficient way to handle it.

IMPROVEMENTS TO FIRREA

Senator **Mikulski**. My 10 minutes has expired.

Senator Garn.

Senator **Garn**. Thank you, Madam Chair.

Mr. Seidman, last summer, as we labored on the FIRREA legislation, there were some of us who felt that the legislation in some cases was too punitive and, therefore, would cause difficulties. Senator D'Amato alluded to some of those factors. I am only convinced, after seeing 8 or 9 months of operation, that what we have succeeded in doing is reducing the value of the franchise.

Yet, there seems to be a reluctance on the part of anyone to even talk about opening up FIRREA. As Senator D'Amato indicated, the administration, or I should say the RTC Oversight Board, only said, well, we are looking at it. We simply could not get an answer out of them.

I want to be very careful—and you, of all people, after all these years you and I have spent together, know that the word "forbearance" is a very bad word in my vocabulary. I spent a lot of time in those conferences with the House of Representatives fighting to keep these institutions open and let them grow out of it. So, believe me, I am not talking about forbearance. But on the other hand, I am talking about going to the other side where we are so restrictive that those franchises are not worth anything. Banks certainly no longer want to acquire them the way they used to.

I am specifically talking about the issue of loans to one borrower. Again, I am saying that ultimately there should not be the same standard of 15 percent for thrifts as there are for national banks, but thrifts had a different purpose. I am talking about a transition period. That one appears to me to be causing some real problems and making the situation worse rather than helping. You do your job and close down these institutions.

Another one is the qualified thrift lender or QTL test that I did not favor changing to 70 percent, which again I think has devalued the value of the franchise, made it more difficult for them to diversify, and some institutions that you are going to have to close down I believe could have survived without some of these.

So, could you comment in general on a couple of these provisions? Do you have any recommendations of what we could do in FIRREA to help you do your job better and, therefore, at less cost to the taxpayers?

Mr. **Seidman**. Thank you, Senator. I have said before, and I think it still is true that the primary way to cut these costs is to find ways to limit the number of institutions that the RTC has to take over and liquidate or sell.

I think that what we have discovered, since we have gotten into this problem, is that it is a far larger problem than any of us knew at the time even though some of us thought it was larger than was being talked about.

Senator **Garn**. Larger than even Bert Ely thought.

Mr. **Seidman**. Yes; even than Bert thought.

So, to some extent, we have diagnosed a problem that was the size of a golf ball, and now it is the size of a basketball, and I am not sure that the same treatment, in terms of operation, is needed to deal with the problem.

I gave the House committee a long list of changes I thought needed to be made in FIRREA to make the job easier. I did not say open it up today to do that, but I think we had 22 items on it. But on that list were both of the items that you have mentioned, that is, the loans to one borrower, which I think is a good, sound rule, but I do not think it is wise and it certainly is making things more difficult to apply it immediately when you have had a different rule in the industry. So, we have suggested that hopefully you can change that administratively. If you cannot change it administratively, then I think someone ought to look at changing it by legislation.

The question of the QTL test I think clearly is one to be examined. The thrift charter is not as valuable as it used to be at least from the number of buyers we are having, and that may be well part of the problem, although if you look at the successful thrifts, they are almost all living well within that test. So, I think that is a subject that certainly ought to be looked at to determine whether we could enhance the charter by easing the restrictions.

One thing is clear. The market is not good for selling these thrifts and that is increasing the costs to a very large extent.

Senator **Garn**. Well, I was aware you had done that in the House, and I would appreciate it if you could also supply that list for the subcommittee. I think that is very helpful to have your viewpoint on that.

[The information follows:]

FDIC SUGGESTED LEGISLATIVE CHANGES

A number of changes to the law are necessary as a result of FIRREA. The following suggestions reflect the FDIC's views on some of the issues that are more substantive in nature. The list is not intended to be exhaustive.

Suggested Changes to the Federal Deposit Insurance Act (FDI Act)

1. FDIC BOARD OF DIRECTORS.

Issue

On February 28, 1993, the terms of all three of the FDIC's appointive directors expire at the same time, and the statute is unclear as to whether the directors then in office may continue until a successor is appointed. Further, in the future, the terms of the FDIC's appointive directors will again all expire at approximately the same time. Both provisions adversely affect FDIC operations and continuity.

Proposal

The February 28, 1993 expiration date for appointive members' terms of office should be eliminated to ensure that each can serve a full six-year term. Further, to ensure continuity, the appointive members' terms should be staggered, with termination dates coming no sooner than two years apart. If FIRREA is not amended to stagger the appointive members' terms and to eliminate the February 28, 1993 expiration date, it should be made clear that those appointive members then in office when their terms expire in 1993 may continue until a successor is appointed and confirmed. Without that clarification, the FDIC Board may have to operate for a period of time with only two ex officio members.

If an appointive member leaves office in the last two years of his or her term, the President should be able to appoint a successor for the remainder of that term and for the succeeding term as well.

2. INSUBSTANTIAL CONVERSIONS.

Issue

Conversion transactions (switches between BIF and SAIF) are generally restricted for 5 years. One institution, however, may acquire the deposits of another institution and convert them if the deposits so acquired do not represent more than 35 percent of the selling institution's deposits and also do not represent more than 35 percent of the acquiring institution's deposits. This test makes sense with respect to the selling institution, since it effectively keeps the selling institution in the market as a viable competitor. But it makes less sense when applied to the acquiring institution since the test has the effect of discriminating against smaller institutions.

Proposal

The 35 percent test should not be applied to the acquiring institution.

3. OAKAR AMENDMENT BANKS--PAYMENTS TO THE SAIF.

Issue

When a bank acquires a thrift under the Oakar Amendment, it begins to make a payment to the SAIF based on the bank's "Adjusted Attributable Deposit Amount." The AADA represents the deposits that the bank has taken over from the thrift. In effect, the bank pays a SAIF assessment based on those deposits.

Unlike ordinary SAIF assessments, however, the payment can never decline. FIRREA specifies that the AADA always increases: it grows at 7 percent per year or at the bank's overall growth rate, whichever is higher. (The AADA is subtracted from the bank's total assessment base for the purpose of computing BIF assessments.)

This requirement can produce anomalous results if the bank is actually shrinking rather than expanding--particularly if the bank is troubled. The bank may be required to make ever-increasing payments to the SAIF when its assessments would ordinarily be reduced.

Moreover, if the bank transfers deposits back to another SAIF member, the SAIF effectively gets a double assessment: it gets an assessment from the acquiring thrift, and it also continues to get the ever-increasing payment on the AADA made by the Oakar Amendment bank.

Proposal

A bank's AADA should be increased or decreased by the bank's overall rate of growth. The AADA also should be reduced by an amount equal to any deposits that the bank transfers to a SAIF member.

4. CROSS-GUARANTEES.

Issue

Before FIRREA, holding companies could effectively transfer their system-wide losses to the FDIC by concentrating the losses in one or two banks, and then allowing those banks to fail. FIRREA attempted to put an end to that practice. FIRREA specifies that, when the FDIC suffers a loss caused by the default of a depository institution, and the institution belongs to a holding company, the holding company's other depository institutions must indemnify the FDIC against the loss. The "cross-guarantee" rule was supposed to enable the FDIC to reach the good assets that belonged to the holding company system, without regard for where the holding company moved them.

The protection is inadequate, however. There are procedural problems related to the timing of the enforcement procedures. As a result, holding companies may be able to protect themselves against cross-guarantees by selling off healthy institutions prior to the failure of an affiliate and retaining the proceeds at the holding-company level.

Proposal

When a depository institution in a holding company system is failing, the FDIC should be able to invoke the cross-guarantee rules against all the depository institutions belonging to a holding company by serving notice on the holding company that the default by one of its affiliated institutions is "reasonably imminent." After that date, any proceeds that the holding company might receive as a result of disposing of an insured affiliate should be subject to FDIC recovery regardless of where held, and any institution sold should itself remain liable under the cross-guarantee. Also, if the failing institution is disposed of by the holding company prior to its failure, the company's other depository institution subsidiaries should remain liable under the cross guarantee.

5. TEMPORARY SUSPENSION OF INSURANCE.

Issue

The FDIC may suspend an institution's deposit insurance temporarily when the institution has no tangible capital--but only if it has filed a Notice of Intention to Terminate Deposit Insurance (which initiates an action to terminate the institution's insurance permanently). Before the FDIC may issue such a Notice, however, the FDIC must give thirty days notice to the institution's primary Federal supervisor. The primary regulator may agree to shorten or eliminate the time period required for notice.

In some emergency situations, however, the FDIC must be able to issue a temporary suspension order even though the FDIC has not yet filed a permanent Notice. In such cases, the 30-day waiting period negates the effectiveness of an immediate temporary order.

Proposal

The FDIC should be able to file its Notice at the same time it enters its suspension order in exigent circumstances.

6. FINAL ORDERS.

Issue

The Administration's version of FIRREA defined the term "order which has become final." The definition was deleted by Congress on the assumption that it was superfluous language. The definition is necessary since it assists the FDIC with proceeding to enforce such orders, including, for example, cease and desist orders.

Proposal

The term "order which has become final" should be defined in the FDI Act.

7. DIRECTORS AND OFFICERS--INDEMNIFICATION.

Issue

When the FDIC has successfully brought an administrative action against an institution-affiliated person, the institution has on occasion indemnified the person for his expenses--including any civil money penalties and attorneys' fees--and has even pre-paid his salary or other expenses in anticipation of the institution's own failure. Indemnification of this kind nullifies the deterrent effect of the administrative action. It also amounts to a raid on the resources of the insurance funds, as the amounts so diverted to the offending person are not available to the institution's creditors if it fails.

Proposal

The payment by an institution of attorney's fees and civil money penalties for an institution-affiliated person against whom the FDIC has successfully brought an administrative action, and pre-payment of salaries or other expenses in anticipation of failure of the institution, should be prohibited.

8. FDIC PRIORITY OVER CLAIMS OF SHAREHOLDERS.

Issue

In the past, several courts have recognized that the FDIC has priority over shareholders of closed institutions in claims against directors, officers, accountants and other professionals. The priority is based on the belief that shareholders should be last in all meaningful ways. During the FIRREA debate, an amendment was introduced to codify this priority, but was not ultimately included in the legislation. A recent court of appeals decision has ruled against the FDIC's priority.

Proposal

We recommend that legislation be enacted establishing a priority for FDIC over shareholders for claims against directors, officers, accountants and other professionals in failed institutions.

9. FSLIC RESOLUTION FUND.

FIRREA provides that the assets and liabilities of the FSLIC are transferred to the FSLIC Resolution Fund ("FRF"). However, FIRREA does not state explicitly that the FDIC succeeds the FSLIC as receiver for pre-FIRREA receiverships, nor does it make clear the FDIC's role as manager of FRF.

In this connection, it is not clear that the FRF (and/or the FDIC as manager of the FRF) has and may assert some or all of the FDIC's rights under the FDI Act, or obtain appropriate benefits under the FDI Act. For example, the question of when the D'Oench doctrine may be asserted has arisen. In addition, lack of a clear basis for authority to act has resulted in problems with title companies.

Proposal

Congress should clarify that the FDIC succeeds the FSLIC as receiver for FRF receiverships, and that the FDIC has all the rights and powers under the FDI Act with respect to these pre-FIRREA receiverships. Congress also should clarify the FDIC's rights and powers as manager of the FRF.

10. EMERGENCY OVERRIDE OF STATE BANKING LAWS.

Issue

FIRREA provides that in certain emergencies the FDIC or the RTC may override state law where necessary to accomplish a sale of a failed savings association. A federal court has recently indicated that, when a bank participates in an emergency acquisition involving a troubled thrift, and the thrift is located in a unit-banking state, the bank may not retain the thrift's branches. We do not believe this is the intent of FIRREA, and it hampers the speedy and cost-effective resolution of failed thrifts.

Proposal

The law should be clarified to affirm that when the FDIC provides assistance for a merger involving a troubled thrift, and the statutory criteria exist for an override of State law, the FDIC or the RTC are authorized to permit the surviving institution to retain the troubled thrift's branches, even if the survivor is a bank.

11. OFFICIAL FDIC SIGNS/ADVERTISING.

Issue

FIRREA says that savings associations (as opposed to all SAIF members) must use the SAIF sign, and that banks (as opposed to BIF members) may use the FDIC's pre-FIRREA sign. There already are banks that belong to the SAIF, however, and savings associations that belong to the BIF. Accordingly, the FIRREA rules can lead to confusion.

In addition, FIRREA eliminated--without explanation--the FDIC's power to regulate the way in which insured institutions advertise their insurance. This power should be restored to the FDIC in order to make it clear that the FDIC can police the use of these signs and the institutions' advertisements. The power should be broad enough so that the FDIC can address various related advertising expressions (e.g., "insured by the FDIC").

Finally, the FDIC should have power to control other uses of the official signs and of the FDIC logo--e.g., manufacture of the signs and their use by nondepository institutions.

Proposal

An institution's right to use the BIF or SAIF sign should depend on whether the institution is a BIF or SAIF member, rather than on whether the institution is a bank or savings association.

The FDIC should have authority to regulate the advertising of FDIC insurance by depository institutions. The FDIC also should have authority to control the manufacture, reproduction, or use of the official signs and the FDIC logo by any person.

12. THRIFT SUBSIDIARIES.

Issue

Insured savings associations must give the FDIC prior notice of the acquisition or establishment of a subsidiary or of the conduct of any new activity through a subsidiary. A few Federal savings banks--those that were chartered as savings banks prior to the Garn-St Germain Act--are exempt from this requirement. There is no good policy reason to treat these savings associations differently from the rest.

Proposal

The exception should be deleted.

13. ACTIVITIES BY CONVICTED PERSONS.

Issue

FIRREA improved the FDI Act's provisions that are designed to prevent certain criminals from participation in the affairs of depository institutions. For example, FIRREA extended the sanctions for suspension of an indicted officer or director to reach cases where "an agreement to enter a pre-trial diversion or other similar program" is entered against such a party, as well as when a "conviction" is entered against such a party.

Section 19 of the FDI Act prohibits depository institutions from employing people who have been "convicted" of crimes involving dishonesty or breach of trust. Section 19 is narrower than the suspension authority of the FDI Act, however, in that it does not include pretrial diversions or similar programs.

Proposal

Section 19 should be extended to reach people who have entered into agreements to enter a pre-trial diversion or other similar program.

14. DISCLOSURES BY UNINSURED DEPOSITORY INSTITUTIONS.

Issue

As a result of FIRREA, uninsured savings associations must disclose the fact that their deposits are not Federally insured. They must make this disclosure both in their advertising and in their periodic statements of account. The FDIC may issue regulations prescribing the manner and content of the disclosure and may enforce its regulations against uninsured thrifts just as though they were FDIC-supervised banks.

The term "savings association" artificially and improperly limits the application of this rule, however. For example, in some states there are uninsured industrial banking companies--yet the FDI Act classifies these companies as "banks," not "savings associations." In addition, there are other nondepository companies that market debt securities in a manner that resembles the deposit-taking activity of savings associations.

Proposal

In order to protect the public against false or misleading practices with respect to deposits in uninsured depository institutions, the FDIC should be given the power to determine when such disclosures are required.

15. "457 PLAN" DEPOSITS.

Issue

The FDIC insures most trusteed employee benefit plan deposits on a "pass-through" basis, i.e., the deposits are insured on the basis of the ownership interests of the plan participants (employees) in the deposits. But so-called "457 plans" (deferred compensation plans established by states, local governments, or nonprofit organizations for their employees under section 457 of the Internal Revenue Code) are unique in that the Internal Revenue Code expressly provides that the funds remain solely the employer's property and are subject to the claims of the employer's creditors. Accordingly, the FDIC legal staff has long maintained that 457 plan participants have no ownership interests in the funds that would support pass-through insurance. Thus, the FDIC position has been that, as a matter of law, 457 plan deposits cannot have pass-through insurance even though there may be no valid economic or policy reasons for insuring 457 plan deposits differently from other trusteed employee benefit plans.

Proposal

While the FDIC is holding a public hearing on March 14, 1990 to clarify its understanding of the nature of 457 plans, if Congress thinks these plans should be insured on a pass-through basis, like other trusteed employee benefit plans, it should consider amending the law to provide a clear legal basis for extending deposit insurance to these plans.

16. GOLDEN PARACHUTES.

Issue

FIRREA provides the FDIC, in its role as conservator or receiver, with the power to disaffirm or repudiate contracts, including abusive "golden parachutes" of management in a failed depository institution. This authority, however, may not reach all abusive golden parachutes and, in particular, does not reach abusive arrangements in institutions that have not closed.

Proposal

FDIC should be empowered, as a supervisory matter, to prohibit or limit excessive or abusive golden parachutes in depository institutions, no matter what form they take or when they are provided.

17. POWERS OF UNDERCAPITALIZED STATE SAVINGS ASSOCIATIONS.

Issue

FIRREA prohibits state savings associations from participating in activities not permissible to Federal savings associations unless the FDIC determines the activity poses no significant risk to SAIF and the institution is in compliance with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act. If an institution is not fully capitalized, the FDIC may not authorize an activity even if such a waiver is clearly beneficial to both the institution and the insurer.

Proposal

The FDI Act should be amended to allow flexibility where a determination is made that an activity will clearly benefit the institution in its recovery and poses no risk to the insurance fund.

18. REAL ESTATE APPRAISALS.

Issue

FIRREA mandates major reform in the real estate appraisal industry. All federally related transactions must have licensed or certified appraisals by August of 1990 and each state must have installed a certifying and licencing process by July of 1991. These deadlines may not be realistic and, as a consequence, may cause delays in a large number of real estate transactions due to a shortage of qualified appraisers.

Proposal

We recommend that FIRREA be amended to provide a phase-in program initially requiring certified appraisals only on large transactions. At the same time, it also should be amended to have a phase-in of the professional requirements in order to increase the supply of qualified appraisers to a level sufficient to handle the anticipated demand.

19. QUALIFIED FINANCIAL CONTRACTS.

Issue

FIRREA provided the FDIC with expanded powers as receiver and conservator. Specific provisions were made for certain securities contracts referred to as "qualified financial contracts." In enacting the legislation, three sentences concerning notice requirements were inadvertently omitted, and these omissions create inconsistencies in the statute. The FDIC has attempted to clarify these omissions by a policy statement.

Proposal

The missing sentences should be added to the statute to clarify and affirm the FDIC position regarding these contracts and to carry out congressional intent.

Suggested Changes to the Home Owners' Loan Act (HOLA)

1. ACTIVITIES OF FEDERAL SAVINGS BANKS.

Issue

FIRREA provides that after January 1, 1990, no State savings association may conduct any activity impermissible for a Federal Savings association unless the FDIC gives it prior approval. However, certain Federal savings banks--those that were chartered prior to the Garn-St Germain Act, and those that were once organized as State mutual savings banks--were permitted to continue to engage in activities and make investments to the same extent as they were originally authorized. For example, the affected Federal savings banks are permitted to acquire or retain junk bonds absent our taking action under section 18(m) of the FDI Act.

There does not appear to be any good policy reason to allow these institutions to exercise in the first instance powers that no other insured savings association may exercise. To be sure, the FDIC retains the power to determine that certain activities or practices present a serious threat to the deposit insurance fund, but the FDIC can only act after the fact.

Proposal

The grandfather rights should be deleted. In the alternative, Federal savings banks should not continue to exercise their grandfathered powers without the FDIC's prior approval.

2. THRIFT CAPITAL.

Issue

The Director of OTS has authority to allow an individual Federal savings association to exceed the 400 percent of capital ceiling for nonresidential real estate loans if the Director finds that the waiver will not pose a significant risk to the operation of the association.

This standard is too narrow, and does not take into account the broader issue of potential harm to the affected deposit insurance fund.

Proposal

Before the Director of OTS may grant such a waiver, the Director should be required to obtain the FDIC's concurrence. The FDIC should be able to provide its concurrence upon a finding that the waiver will not result in a significant risk to the affected Fund.

3. LOANS-TO-ONE-BORROWER

Issue

FIRREA makes savings associations subject to the same loans-to-one-borrower restrictions as national banks. Thrift institutions have not had the opportunity to develop effective loan participation networks to accommodate large loans that might otherwise exceed their individual lending limits, as banks have done for years. This places a short-term hardship on the thrift industry by restricting its ability to serve large borrowers.

Proposal

Provide a transistion period to phase in the loans-to-one-borrower restrictions.

QUALIFIED THRIFT LENDER TEST

Senator **Garn**. I would like to emphasize, even when I talk about the QTL, you are absolutely correct that a majority of the institutions that are profitable are living within that new test. However, there are a lot of other factors and reasons for that.

But in each of these, looking at loans to single borrowers and looking at QTL tests and other factors, I am not talking against any of the goals of achieving the capital standards from 15 percent or ultimately a QTL test. What we are doing is in many cases trying to change these people too rapidly. When they talked about the matter of goodwill, I do not think it ever should have been counted to the extent that it was.

But, nevertheless, consider the point Senator D'Amato made that you take a healthy institution which, if we had left it alone, would still be healthy. We induced them to take over a failing institution and then because of new accounting rules, we force what was a healthy institution into a failure situation. That simply is not fair and is not good public policy.

So, what I am looking for are mechanisms that we can take in the transition period to get them to the capital standards that we all agree on. So, in addition to your list, if you have any suggestions for how we can transition them from where they are to where both you and I want them to be, that would be very helpful.

I think another example is the issue of high yield or junk bonds. Whatever risk there was in junk bonds, we made worse by forcing them with accounting changes and putting in what I thought was a too short transition period to get rid of them. We artificially depressed that market and created billions and billions of dollars of losses that would not have occurred in the junk bond market had we had a more reasonable transition period. Again, I did not have any trouble with taking them out of the thrifts and putting them into a separate sub. How quickly do you do it?

So, I see that in FIRREA, while it was necessary and I overwhelmingly support it, there were parts of it that were counterproductive to what we were trying to accomplish.

CAUSES OF THE CREDIT CRUNCH

The other question I would like to ask you before my time is up is about the so-called credit crunch. I hear every day that we are now so regulating the banks and S&L's that they are fearful to make new loans. Are we compounding the problem by further depressing the real estate market?

I will give you a specific example—of dozens that come in to me—of two doctors here in the Washington, DC, area who have a very successful medical practice. Five years ago, they built their own new office building in the middle of McLean, VA, which is hardly underprivileged and depressed. They have a loan remaining on their medical building that is only 30 percent of the market value of the building from a couple of years ago, and it is probably worth more now. They have never missed a payment, and I do not think anybody expects their medical practice to go down. They have been informed by their bank that their loan will not be renewed next year.

This is happening all over the country. I do not understand where we are getting this credit crunch from. Sure, call in bad loans. Try and minimize them. But over and over I hear specific examples of calling in good loans that are performing loans and have not high appraisals or anything else. But in this case, only a maximum of one-third of the value of that building is mortgaged, and they are calling it. Now, that is going to have to have a stifling effect on the very area of commercial real estate that you need to keep high to recover assets from.

Do you have any comment? Is this widespread or just a small thing?

Mr. **Seidman**. It is very hard to tell. For instance, the National Federation of Independent Business, a small business organization for organizations under 50 employees, just made a survey of their people and came back and said there is no credit crunch among our people. But we hear every day of situations where people are not getting loans.

I do not know, obviously, what that bank was doing, but they certainly were not doing that at the order of a regulator because that simply is not the kind of thing we are doing. We have tried to impress upon the banks that we expect that they will continue to do what they have always done, which is make loans that are good loans and have a reasonable expectation of being repaid.

Given all that, when you are pouring billions of dollars of new real estate into the market every week by continuing to liquidate these S&L's, every time we get one in and close it down, the tough-to-sell real estate goes on the market because we have no buyers for them as part of institutions. I am sure that that is having an effect, and it is not only having an effect in what we are doing, but when we say, well, there are 100 billion more coming in now, that any buyer out there or any lender out there is going to say, boy, I better be very careful of what I am doing. I see now that this many *x* billions more are about to come into the marketplace.

It is not a regulators' crunch. The regulators are maybe as fearful as anybody else of what is happening, but the fact of the matter is that we have weakening markets. It is not only the RTC and the S&L's, it is the result of excesses of lending in the 1980's that frankly got way out of hand. When you have an oversupply, you have to cut back below normal to absorb that oversupply.

So, that is why I go back to my original statement, and that is that the larger you make this pool of assets that have to be sold, because they are in the Government's hands, the more unsettling it is to the marketplace.

Senator **Garn**. My time is up and I agree with you that although you are not imposing this, there is obviously a psychological impact that we have to be more careful in what we loan. They certainly should be.

My question is about existing loans, on which I have so many of these anecdotal stories. It does not make any sense to me that they are so overreacting that existing, performing loans are being called. That is a very different story than building a new building and providing loans in an area that has excess building and you are trying to sell property.

So, if you could keep us advised on this so-called credit crunch, I think it is something we need to watch because we do not want to exacerbate the problem.

Thank you, Madam Chair.

Mr. SEIDMAN. We are watching it very carefully.

Senator MIKULSKI. Senator Nickles?

Senator NICKLES. Madam Chair, thank you.

Chairman Seidman, I would echo exactly what Senator Garn has said. I have heard it many times too. I am pleased to hear you say that that is not caused by the regulators, but we keep hearing these stories, and you need to be aware of that as well.

RTC SALES OF REAL ESTATE PROPERTIES

Let me add on top of that, following up on your statement and part of my opening comments. The RTC board mentioned that they were going to sell property—or correct me if I am wrong—as much as 30 percent below the appraised value. They own a lot of property in my State, and by that very statement, they took a lot of buyers off waiting for those better buys. My guess is that that further devalued the property they held, and in all likelihood, increased the losses that RTC is looking at. Maybe I am wrong, but if people are thinking that they can get it at 30 percent of appraised value instead of maybe 10 percent less than appraised value, they are going to wait and try and come in with a lower bid.

Mr. SEIDMAN. Would you like my comment on that?

Senator NICKLES. Please.

Mr. SEIDMAN. One of the problems with operating in Government is that you have to announce publicly what you are doing. If we were private sellers, we would not have said anything. We would simply have allowed our agents in appropriate cases to reduce prices where they were not selling at the price that they were at.

Remember, we are not automatically reducing prices. All we were doing is giving our sellers, who sell on commission, so the higher price they get, the better—to reduce the price after a certain period of time if they believe that they can sell the property at that lower price based on brokers and the marketplace. So, there is no automatic reduction. The marketplace will pay whatever the market is. The buyer who waits for the 30-percent reduction, which will not happen very often, may find that the property is sold before it ever gets there.

Our sales in the FDIC are now running at about appraised value. Now, as long as they are selling at appraised value, we are not going to reduce any prices. All we are doing is giving our people a chance to try to find the market if, after a reasonable period of time, 6 months, they have not received any bids. Let's face it, in some areas appraisals are behind the market.

Senator NICKLES. I hear what you are saying, but I wanted you to be aware because RTC is a significant landholder in my State. I think we are second in the country or something in the properties. I am not sure, but anyway, very significant amounts, millions of dollars worth of properties. I believe that that statement alone and the headlines and everything that were generated caused a lot of people to pull off the market and wait and see if they couldn't get a better buy.

Mr. **Seidman**. Let me explore sales in your State, and I will get you some numbers and see if we find any evidence that sales slowed way down and so forth.

Senator **Nickles**. I would appreciate that.

Mr. **Seidman**. I would like to know, and I would be very pleased to check and see what it is doing.

FDIC TREATMENT OF OKLAHOMA STABILIZED INSTITUTIONS

Senator **Nickles**. While you are looking at parochial concerns, there were several institutions that FSLIC was in the process of taking over about 1 year ago, and there was significant Federal assistance. Then they were held somewhat in limbo. Some are still in that status, and I believe are in the process of being acquired, I hope. But in some of those institutions—I mentioned one, Heartland Federal, but there are several. You do not have to do it now, but could your staff give me an appraisal on where those are? There are I think six or nine of the accumulated—we called it the Oklahoma plan, if you might remember, 2 years ago.

Mr. **Seidman**. I remember.

Senator **Nickles**. Could you bring me up to date on that or have your staff bring me up to date?

Mr. **Seidman**. I would be very pleased to do that.

Senator **Nickles**. I have heard from some parties—and it concerns me—that they were looking at liquidation, and I hope that that is not the case. Again, I hope that we use the less expensive means of resolving those cases as well. But if I could be briefed. I am not looking for a lot of work, but I would just like to find out where we are.

ORGANIZATION OF RTC DECISIONMAKING

One additional comment dealing with RTC, and I do not know if this would be better for you or for Mr. Adair. But I remember the Wall Street Journal editorial, or maybe it was not an editorial but a comment, that showed a diagram of the organizational chart on RTC. Was that an accurate portrayal of what we did?

Mr. **Seidman**. Well, it is accurate, if somewhat misleading. I think if you want to draw every interrelationship that there is in Government, you will get some fantastic charts on almost everything. But it is true that the situation, as it finally evolved in FIRREA, was extraordinarily complicated.

Senator **Nickles**. That looks like a disaster. My good friend, Jake Garn, and others—I just have shuddered when—I didn't want to get your dander. I just wanted to——

Senator **Garn**. No; I just wanted you to know that this Senator did not favor creating it in that way or being under Treasury. I favored keeping an independent agency without all of those things and the bureaucracy that went with it. So, I just wanted you to know I am not disagreeing, and it is not hindsight. I made those comments at the time and was ignored, and tried amendments, which were defeated.

Mr. **Seidman**. I made those comments too within the administration, but I was not successful.

Senator **Nickles**. Well, that does concern me because we are looking at RTC—and correct me if I am wrong, but they are definitely going to be the largest real estate holder, I would guess, in the country. They are going to be disposing of hundreds of billions of dollars of assets in the next few years. If the system does not work, we are going to be spending and wasting a lot of money. So, I am concerned about it. If it does need to be fixed, we need to start trying to fix it now and trying to minimize these losses. I am concerned, as anybody else is, on the cost of the system. I am very open for suggestions for improvements.

APPROPRIATE LEVEL OF DEPOSIT INSURANCE

On that same line--I know my time is running out—I wanted to ask you kind of an interesting question. I do not know how many more times we will have you before this committee. But did Congress make a mistake in increasing the insurance amount from $40,000 to $100,000?

Mr. **Seidman**. Well, I think it was a mistake if you combined it with the other things that were done, particularly the lack of supervision and the opening of the States' abilities to allow S&L's to go into all kinds of different activities. So, it just made it easier for them to get into this rapid growth and so forth.

I think over time it would have evolved anyway, because the brokers can handle 40's almost as easily as they can 100's. But the 100's made it easier for them to grow fast and when you allowed them to grow fast with no real capital rules and with no supervision, we got the disaster that has taken place.

Senator **Nickles**. Should Congress and the administration be working on some restrictions on that and make the $100,000 apply to an individual instead of a multiplication of institutions, or maybe reducing that amount? How can we put a risk relation back into it, which is not presently there?

Mr. **Seidman**. Well, we are working with the administration on that right now. We have submitted our list of possible ideas to them. They are going to be organizing this study, which is required under FIRREA, and I think they expect to report just early next year with whatever suggestions they have.

What we have said is that the taxpayer is taking too much risk under these insurance systems, that they are not cost-free. We found out how much they can cost when they go wrong, and we should certainly limit the potential liability of the taxpayer.

Now, how we do it can depend on a whole series of things from restricting the kind of assets that you can put insured funds into so that you keep them in the safest part of the institution, to having coinsurance, having private insurance for part of it to set rates, having the too big to fail doctrine changed so that we do not, in effect, have 100 percent insurance on large institutions, by requiring more capital, by treating large banks and small banks differently. There are a whole series of things that I think need to be explored, but the bottom line is we need to come out of it with restrictions that will cut down on the potential liabilities that we now are exposed to.

Senator **Nickles**. I agree with that, and I also think there should be some limitation above a certain amount. I do not know why, if an individual is fortunate enough to have $500,000, that the Federal Government should insure all of that if it is in five separate institutions or in five family members' names or something like that. I think somehow we do need to address that to reduce the liability and put some risk relation back to the depositor back above some amount. It would not bother me if that amount was less than $100,000.

Mr. **Seidman**. I think we need to explore that. We also have to be very careful in that we have an interrelated world and a financial system where money moves faster than light now. We have got to remember that we have gone through some very tough times without panics and so forth that could take place. So, we have to balance what we are changing, and I think we should, but we have to be careful that we do not destabilize the system in the process.

Senator **Nickles**. Thank you very much.

Senator **Mikulski**. Senator Grassley?

Senator **Garn**. Senator Grassley, would you yield for just a comment on this point?

Senator **Grassley**. Yes.

Senator **Garn**. I would agree that it was a mistake in hindsight. At the time that that was raised, everybody knows there was a very difficult financial crisis going on in 1982 or 1980, 1981, and 1982, in that period of time. But I did not want to let this go without suggesting, first of all, not only that the administration is studying deposit insurance, but the Banking Committee is currently holding hearings on deposit insurance. We will need to get some sort of risk-related premiums or risk-related capital to discourage institutions from getting into too risky type of products, or if they do, they are going to pay a great deal more for that insurance.

EXTENSION OF FEDERAL DEPOSIT INSURANCE

But the point I wish to make is that the No. 1 error made was not the increase to $100,000 nearly as much—and I think Mr. Seidman would agree with this—as was allowing State chartered institutions to have that Federal insurance without complying with Federal guidelines. One of the most frustrating things to me is to constantly hear about how deregulation and lack of supervision was the problem, and that is a true statement.

However, the vast majority of the problem is State chartered institutions. I favor States' rights and the ability of the Utah and Maryland and Oklahoma and Iowa Legislatures to do what they want—and I still favor a dual banking system allowing State legislatures to do whatever they want to with their State chartered institutions. But we should not have allowed them to have Federal insurance if they exceeded Federal powers. That is the major problem. I do not care whether the amount was $10,000, $40,000, or $100,000. That principle should have been adhered to. Fine, you do anything you want in the State of Oklahoma or Utah or Maryland, but you do not get Federal insurance to go with it.

Mr. **Seidman**. We support that view, Senator.

Senator **Garn**. I apologize for taking your—well, the chairman will not take it out of your time. I will not have a second round. I promise. [Laughter.]

PERFORMANCE OF THE RTC

Senator **Mikulski**. Really, I am going to encourage us to move briskly. We need our testimony from our inspector general. I am going to have to leave at 4 o'clock, and we will perhaps have to rely upon someone else to assume the Chair.

Senator **Garn**. Madam Chair, I will help you by leaving now because I have a 3:30 appointment. That will guarantee that I cannot take any more of your time.

Senator **Mikulski**. Senator Grassley?

Senator **Grassley**. Madam Chair and Mr. Seidman and other guests, I would start with a quote from an example of correspondence I get, and it will lead me into my first question. I will not mention the institution in my State involved, but a partial quote is from the letter.

> There are numerous cases where solvent institutions are thrust into partnership with the RTC through previous participation or joint venture arrangements with now defunct institutions such as our plight on two properties in Texas. Our participants are now a part of the RTC program. The bureaucracy of the RTC is critically impeding the total recovery and solution of our institution's real estate own problems.

Then skip, but read one last sentence.

> The RTC solution to at least these partnership holdings is not satisfactory.

So, it leads me to my first question. Why are there so many delays on the RTC's part—effectively increasing costs to the taxpayers and threatening the viability of healthy institutions in assisting the disposition of partnership holdings in cases such as I have just referred to?

Mr. **Seidman**. There are, unfortunately, some delays, and that comes from the fact that the RTC started out about 9 months ago with no employees, no offices, and no assets. In the period of 9 months, we have grown to 50 percent larger than Citibank, and we have hired 3,000 employees. We have had to develop the systems in the process to be able to answer the kinds of things, to be able to meet the inspection of the inspector general when we make a transaction, and clearly that has been a difficult process. It has required policy decisions by a different body, the Oversight Board. So, it has taken some time.

Now, we have a policy in place now that says that anybody who proposes something like that to us must receive an answer within 30 days. I think we are substantially living up to that, although we may not be in every case. But this has been one of the great management challenges I think that anyone has ever looked at, to go from nothing to the kind of institution—and we are dealing with thousands and thousands of people all over the country, any one of whom who does not get good service is rightly going to let people know about it. So, there have been instances like that. I think it is improving and will continue to improve.

RTC PROPERTY APPRAISALS AND SALES

Senator **Grassley**. Well, do you have guidelines in place, or will you have, in cases involving partnership holdings for an institution to market properties in discounted sales?

Mr. **Seidman**. Yes; we do have guidelines. We have standard guidelines for what we can do.

Senator **Grassley**. So, they are in place.

Mr. **Seidman**. They are. The standard contract is just—well, actually it is going to be approved this Thursday.

Senator **Grassley**. In handling commercial real property in such partnership holdings where one partner wants to dispose of its interest, what does the FDIC's 20 to 30 day approval process involve, and is it sufficiently expedient?

Mr. **Seidman**. Well, the process involves reviewing what the proposed transaction is in determining whether in our view it is fair and satisfactory so that we can proceed with it. We have hundreds and hundreds of these coming in, and we are really pressing to try to get this answer out in the time period allowed. Hopefully some day we will be able to do it in 2 weeks.

Senator **Grassley**. I suppose at this point, though, you are getting it done in the 30 days.

Mr. **Seidman**. That is the directive to the people, and in almost all cases, I think it is being followed. Sometimes it just is not possible, but essentially that is what we are doing, yes.

Senator **Grassley**. Is it true that in selling packaged properties, especially like properties, the properties need to be appraised individually?

Mr. **Seidman**. Yes.

Senator **Grassley**. Would it be practical to have packages of real estate be appraised as a whole rather than individually and thus save a great deal of time and expense in disposing of properties?

Mr. **Seidman**. Well, I doubt that that really gives the Government the protection that it needs. We need to know what these properties are worth before we sell them. If you have 10 properties, I do not know how you appraise them all in one bunch. You have to look at each one. Each one has a value. I think that we need to assure the taxpayers that we are getting a fair price for properties. If appraisers tell me that they can do it, I would be happy to look at it.

ACQUIRERS' VIEWS ON INDEFINITE APPROPRIATIONS

Senator **Grassley**. I understand that rationale of providing the FDIC with a current indefinite appropriation to cover the contractual liabilities and obligations held by the FSLIC resolution fund—as you stated, these are to avoid the possibility of a default on the FSLIC resolution fund obligations later in the fiscal year, and you also state that if cash was available to the FRF, the large note portfolio might be paid off early with tremendous interest savings. I think that is your quote.

Without having detailed knowledge of the 202 assistance agreements and their unique contractual features, I would like to know if providing a current indefinite, flexible appropriation might send the wrong kind of signal to the acquiring institutions that hold these contractual rights with the Government.

Before you answer that question, let me say, in other words, is it at all possible that if the acquirers of failed thrift institutions knew instead that Congress would provide only a limited set amount of money for settling the FRF obligations, that they may have a strong incentive to cooperate more fully and more expeditiously with the Government?

Mr. **SEIDMAN**. Well, I think that is possible, Senator. I think it would be possible, that the people who have these very good contracts would like to know that we do not have the money to pay them off, but that if we got it, they might be more willing to renegotiate a less rich deal than they have. We are, as you know, reviewing all these contracts for this purpose right now.

Now, the amounts of money that would be involved in paying those off could be very substantial, and we would not expect to spend that kind of money without coming back to the committee and having their approval, even though we were under an indefinite appropriation process, because that could amount to many billions of dollars.

Senator **GRASSLEY**. Mr. Adair?

Mr. **SEIDMAN**. Mr. Adair is back here.

Senator **MIKULSKI**. Mr. Adair will be——

Senator **GRASSLEY**. Well, then I am going to have to submit questions. I had some questions I wanted to submit to him, but I am not going to be able to be here.

Senator **MIKULSKI**. OK.

Senator **GRASSLEY**. So, I would ask Mr. Adair if he would respond in writing.

Senator **MIKULSKI**. Without objection.

Senator **GRASSLEY**. Thank you, Mr. Seidman.

Senator **MIKULSKI**. Thank you, Mr. Grassley.

ADDITIONAL COMMITTEE QUESTIONS

Mr. Seidman, there are many questions that we could ask you. I think you provided this committee with excellent testimony. I also think that you have provided this Nation with excellent service. This is one Senator who is sorry that you will not be holding this post for an indefinite period. In behalf of myself and the people I represent, I think you have really taken a terrible situation and tried to manage it, just as you have talked about building these agencies and so on. So, we want to most sincerely thank you, and as you move to other responsibilities, we hope that we can consult with you from time to time on how we can best exercise our responsibility to the American people. So, thank you very much.

Mr. **SEIDMAN**. Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

BREAKDOWN OF FRF ASSETS UNDER FDIC CONTROL

Question. The FRF is generally described as consisting of 202 assistance agreements that need to be closed out. But aren't there also S&Ls that you have liquidated and are holding their assets for disposition? Could you provide the types of assets you hold or cover, such as residential property, commercial property, stocks, bonds, etc., and their approximate value?

Answer. Yes, the FDIC's Division of Liquidation (DOL) is disposing of assets which the former FSLIC held in its corporate capacity and in its capacity as receiver for 99 failed thrifts. The types of FRF assets now under DOL management and their total book value (in billions of dollars) are:

Loans	$ 1.5
Securities	$ .2
Mortgages	$ 5.7
Owned Assets	$ 4.1
Other/Judgments	$ 2.1
Total	$13.6 Billion

It should be pointed out that Chairman Seidman's testimony concentrated on the liabilities of the FRF stemming from the 202 assistance agreements. These agreements provide various forms of assistance to the acquirers on their covered asset portfolios. As of December 31, 1989, the total covered asset portfolio for all assisted institutions was approximately $35.9 billion of which $17.6 billion was loans ($1.5 billion in 1-4 residential mortgage loans), $13.8 billion was real estate owned, $2.6 billion was investments in subsidiaries, $1.6 billion was in mortgage backed securities, and $0.3 billion was in fixed and other assets.

BUDGET TREATMENT OF FRF OBLIGATIONS AND EXPENSES

Question. The President's budget justification is rather difficult to follow, and to reconcile with other material provided us. For example, outlays greatly exceed obligations and expenses. Why? Also, it appears your assistance agreement payments are treated as neither obligations nor expenses. Is this correct?

Answer. The OMB justification is based on formats and scoring conventions separately negotiated between the Legislative and Executive branches that differ from the business approach of the FRF. In response to your question, FRF outlays are effectively payments of cash scheduled for payment in the subject fiscal year. These outlays pay for obligations made in the same year and earlier years and thus are significantly higher than current obligations of the fiscal year. Expenses must be viewed separately from outlays and for the most part represent the recognition of obligations on the funds general ledger as detailed transactions are recorded. From the business perspective employed by the FDIC we use the far simpler approach of matching sources and uses of funds during a fiscal period to arrive at new outlay requirements plus note repayments to arrive at our current appropriation estimate. For 1991 that estimate is $4.0 billion.

EXPLANATION OF THE FRF BALANCE SHEET

Question. Your balance sheet in the President's budget estimates FY 1991 assets of $5.7 billion, liabilities of $31 billion, and equity of minus $25 billion. Could you explain in a little more detail just what the major items consist of. For example,

-- is "invested capital and losses" the losses incurred thus far in disposal of assets, and "estimated loss allowance" an estimate of losses yet to be incurred?
-- Could you elaborate on the non-current receivables?

Answer. "Invested capital and losses" for FRF as a negative $25.8 billion represents a balancing account that equates the assets and liabilities of the fund. Simply stated the government holds a negative equity position (no balance) plus an obligation to cover losses known and currently estimated ($25.8 billion). This is in fact the present value of losses already incurred plus the future loss estimates. Non-current receivables are assets due from receiverships and insured institutions that won't be collected during the fiscal period due to legal and/or contractual agreements. For example, the trustees of a receivership must declare a dividend from collections to all creditors after current expenses are paid. This dividend action takes place infrequently. Receivables from insured institutions could include notes or loans with terms in excess of the fiscal period. Current assets on the other hand are liquid and are used to meet FRF requirements prior to requests for Treasury Funding.

ACCOUNTING RECOGNITION OF FRF LOSSES

Question. Are losses taken at the time of takeover, asset sale, or when?

Answer. As they relate to assisted transactions and covered assets, allowances for estimated loss are established and recorded at takeover. Periodically, while assets are held pending sale, loss allowances are adjusted as appropriate based upon updated appraisals and other current valuation processes. The final loss (or gain) is recorded when an asset is sold and the actual difference between book value and sale proceeds is known. It should be noted, however, that FDIC has the authority under most assistance agreements to direct selective write-downs of covered assets to reduce yield maintenance payments.

ACCOUNTING TREATMENT OF FICO BOND PROCEEDS

Question. The accounting for your transactions is also a little unclear, such as when bond issuances and other financial transactions are counted as receipts or outlays. Could you explain this?

Answer. The Financing Corporation (FICO) bond sales are considered off-budget financing. FICO bonds are not, for example, guaranteed by the U.S. Government as to either principal or interest payments. Accordingly, these bonds do not generate either budgetary obligations or outlays. The cash proceeds from FICO bond sales appear on the FSLIC and FRF budget schedules as line 14, "Offsetting collections from Non-Federal Sources: Sale of capital stock and certificates."

FDIC INSPECTOR GENERAL REVIEW OF FRF

Question. Does FDIC have an IG that also monitors the activities of the resolution fund? Has he done any work on the fund since FIRREA?

Answer. Yes, the FDIC does have an Inspector General who is responsible for monitoring the activities of the FRF. Since the creation of FRF in August 1989, the Office of Inspector General (OIG) has completed audits of 15 financial assistance agreements, covering $39.5 million in assistance. As a result of these audits, OIG has questioned costs in the amount of $2.77 million. In addition, OIG has begun audits of 12 financial assistance agreements covering $124.6 million in assistance and has in process an audit of selected contractors who are monitoring the financial assistance payments made to acquirers under the Southwest Plan. During the last half of this year, OIG is initiating audits of all the Southwest Plan financial assistance agreements (representing over $2.8 billion in assistance) and five other financial statement audits of FRF in 1991. In addition, the General Accounting Office is auditing FRF's financial statements on an annual basis.

EXAMINATIONS OF OPERATING FRF INSTITUTIONS

Question. How many of the S&L's in the Fund are still operating, and do you or Treasury's Office of Thrift Supervision have bank examiners monitoring their operations?

Answer. The FRF currently has liabilities for 202 operating thrifts arising under 202 separate assistance agreements. The deposits in these institutions are insured by the new Savings Association Insurance Fund (SAIF). As of June 4, 16 of these operating thrifts had been placed into RTC conservatorship and will continue to operate, albiet in a severely restricted fashion under RTC mangement, until resolved via sale or liquidation. In addition, the parents of three of the operating thrifts have been placed into RTC conservatorship. The primary regulator for the 202 operating and assisted thrifts is the OTS which has savings and loan examiners monitoring their activities. FDIC/Division Of Supervision performs concurrent examinations of some of these institutions with OTS. FDIC/DFO has staff located in Washington, D.C., several field offices, and on-site at some of the institutions to ensure compliance with assistance agreement terms and minimize costs to the FRF. Also, OTS has examiners onsite at all Texas institutions with over $1 billion in assets.

ADEQUACY OF SAVINGS AND LOAN EXAMINATIONS

Question. Are there enough examiners who are auditing and reviewing the books and transactions of S&L's?

Answer. Savings and loan associations operating under assistance agreements are subject to regular examinations by the Office of Thrift Supervision (OTS), the FDIC, and by appropriate state supervisory authorities if the institutions are state chartered. OTS is the primary federal regulator of thrifts and schedules examinations based on their profile of the institution. The FDIC and state authorities generally coordinate their examinations with OTS to ensure more effective use of examiner resources. Assistance agreements that were approved by the former Federal Home Loan Bank Board are reviewed during the examination process. In addition, more in-depth onsite monitoring of those agreements is done through inventory audits conducted by the Division of FSLIC Operations and by the Resolution Trust Corporation's audit teams that were mandated by Congress.

FREQUENCY OF INSURED DEPOSITORY INSTITUTION EXAMINATIONS

Question. How does the ratio of examiners-to-financial institutions compare with that for healthy S&L's? Banks? Credit unions?

Answer. The comparison of examiners to problem institutions and examiners to nonproblem institutions may not be a meaningful comparison for the FDIC because the same pool of approximately 2,300 field examiners is used to staff examinations of problem and nonproblem institutions. Under our existing examination frequency policy, problem and near problem institutions are to be examined at least once every 12 months. Nonproblem institutions are to be examined at least once every 24 months. These onsite examinations are also supplemented with visitations, offsite monitoring and other actions considered appropriate. Based on these guidelines, in 1989 approximately 47 percent of FDIC field examiner resources used for BIF insured institutions were allocated to problem and near problem institutions while 53 percent of our field examiner resources were allocated to nonproblem institutions.

The FDIC does not maintain statistics for OTS and the National Credit Union Administration (NCUA) examination programs; therefore, we can not comment on their examination coverage.

FRF CONTRACTUAL OBLIGATIONS

Question. Could you explain the various contractual and other obligations you are under with respect to these S&Ls or their acquirers?

Answer. An assistance agreement is essentially a contract between the FRF and an acquirer which specifies procedures and actions the acquirer must take prior to incurring major expenses or losses that are to be reimbursed by the FRF. Typically, these agreements would include some, but not all, of the following forms of assistance:

- o Payment in cash, or with a promissory note, to cover all or a negotiated amount of the negative net worth of the failed institution(s);

o Capital loss coverage which provides payment for the difference between book value and net sales proceeds on "covered assets." The amount and nature of covered assets is negotiated in each agreement;

o Yield subsidies, which ensure a defined level of return on covered assets;

o Indemnifications to the acquirer for legal expenses in connection with lawsuits against the failed institution or other contingencies;

o Loss-sharing arrangements in which the acquirer bears a percentage of loss upon disposition of covered assets;

o Gain-sharing arrangements, in which a percentage of gain realized on the sale of covered assets above some benchmark is provided as an incentive to the acquirer to obtain the maximum price for covered assets;

o Tax benefit sharing provisions that arise from the acquirers' use of preacquisition net operating losses (NOLs) as well as other tax features of the agreements;

o Buy out options under which the FDIC may elect to purchase covered assets;

o Warrants which entitle the FRF to share in any increase in value in the assisted thrift. In some instances, this also may include sharing in earnings; and

o Mark-to-market coverage which may reimburse the acquirer for the difference between book and fair market value of remaining covered assets when the agreement terminates or for goodwill established for assets that are not covered.

STATUS ON DIVISION OF FSLIC OPERATIONS' MANAGEMENT GOALS

Question. Your prepared statement cited 7 ianagement goals. Could you provide the status and/or arget dates for implementation of each of these oals?

Answer. Each of the seven management goals cited n Chairman Seidman's prepared statement and in the trategic plan which accompanied his statement require he accomplishment of multiple and more specific bjectives. Attached are the relevant portions of

DFO's three-year goals and objectives statement that supports the strategic plan and establishes target completion dates.

ADMINISTRATION PROPOSALS FOR REORGANIZING THE S&L CLEAN-UP

Question. Is the administration considering any organizational changes to the various entities created or realigned by FIRREA?

Answer. As an independent regulatory agency, the FDIC does not speak for the Administration. Of course, we are aware of several legislative proposals to reorganize the current regulatory structure. At this time, the FDIC believes that the thrift regulatory structure put in place by FIRREA should be given time to work before it is altered again.

FRF COST ESTIMATES

Question. The President's budget proposal strongly implies that appropriations will be a minor source of funds, and section 215 of FIRREA clearly makes appropriated funds a source of last resort. The discontinuance of the use of FICO bonds does not appear to be the only factor affecting the substantial over-run of your original FY 1990 estimate. What are the other factors?

Answer. The original FY 1990 estimate of $1.8 billion that appeared in the Budget was prepared by the Congressional Budget Office (CBO). This was done by CBO in 1988 in preparation for the FY 1989 Congressional Budget Resolution, long before FIRREA's significant changes in funding relationships were known. The FDIC's first FY 1990 FRF estimate following passage of FIRREA was $2.7 billion. This would have been very close to the current estimate had further FICO bond sales not been suspended. Thus, our estimates have been on target.

REVENUES FROM SAIF MEMBER PREMIUMS

Question. Apparently, by the end of FY 1990, you had not yet received any insurance premiums from SAIF members. Why not? When will you, and how much?

Answer. FIRREA provides that assessment collections are applied in priority order to the Financing Corporation (FICO), then to the Resolution Funding Corporation (REFCORP), then to the FSLIC Resolution Fund (FRF), then to SAIF. Since the passage of FIRREA, two premium assessment collections have occurred. The first was on September 29, 1989 and was designed to "transition" the SAIF members from the FSLIC system to the FDIC system and paid for insurance coverage through December 31, 1989. This assessment collected approximately $394 million, of which $295 million was applied for FICO and the remainder for REFCORP. Neither FRF or SAIF received any of these monies. The second assessment collection occurred on February 8, 1990, collecting approximately $931 million. This assessment paid for insurance coverage from January 1, 1990 through June 30, 1990. Approximately $389 million was applied for FICO and the remainder for REFCORP. Neither FRF or SAIF received any of these monies.

The next assessment will occur on August 8, 1990. The amount assessed, which is a function primarily of overall deposit levels, and the amounts distributed to FICO, REFCORP, and FRF, will determine the amount which ultimately flows to SAIF. The same may be said of future assessments.

INVESTMENTS BY FDIC OF THE FRF FUND BALANCE

Question. The President's budget justification shows you began FY 1990 with $ 2.4 billion in securities and other investments, expect to end the year with $ 1.1 billion in such investments, and your statement says you expect interest on these investments to be $ 42 million. That would suggest a rate of return of only between 1.7 And 3.7 percent. Is this correct? Why?

Answer. The current estimate of $42 million provided in our May 23, 1990 statement is correct. For most of FY 1990, the average daily fund balance of FRF will range between $500 million and $1 billion, but only that portion of the fund balance derived from non-appropriated sources may be invested in U.S. Treasury securities to earn interest income. We estimate the average daily balance of the non-appropriated portion to be $500 million, bearing an average interest of 8.4 percent. This yields an estimated return of $42 million.

SOURCES OF FUNDS FOR THE FRF

Question. Could you provide an analysis of each category of potential sources of funds for the FSLIC Resolution Fund, by fiscal year? If you cannot now provide estimates you are comfortable with, when will you have good estimates?

Answer. Our estimates for each significant source of funds category for fiscal years 1990 and 1991, as contained in material presented during Chairman Seidman's May 23, 1990, testimony before the Subcommittee, are as follows (in millions of dollars):

Sources of Funds	FY 1990	FY 1991
1. Thrift Insurance Premiums	$ 0	$ 1,169
2. Receivership Proceeds	859	1,692
3. Sale of Corporate-held Assets	238	334
4. Interest Income on Investments	42	29
5. Other Income	162	125
Total Sources of Funds (Million)	1,301	$3,349

INCREASING COST ESTIMATES

Question. The President's budget said the FRF would need $ 2.9 billion in appropriated funds in FY 1991, and your prepared statement said $ 4 billion. This is obviously not a result of the FICO bond decision. What accounts for this jump of nearly 25% in just over four months?

Answer. The Presidents budget was formulated about nine months ago. Since that time additional losses from asset sales have been identified as well as the carrying cost and yield maintenance from those covered assets. Our $4.0 billion estimate recognizes the volatile nature of these estimates.

EXPECTATIONS FOR COST INCREASES IN FY'91

Question. If your estimates have gone up by $1 billion just in the last 5 months, what might we expect during the course of FY 1991? Could you at least give us a range of the estimate of your needs in 1991? What about in each of the years FY 1992 through 1996?

Answer. There is considerable uncertainty in quantifying payments for assistance agreement obligations because of external variables such as interest rates and real estate values. For example, an average six percent decline in value of the $35.9 billion portfolio of covered assets could add over $2 billion to our estimate of funding needs. The estimates provided on May 23, 1990 for each of the budget years are based upon current interest rate levels and property values.

FINAL FRF COST ESTIMATE FOR FY'91

Question. When will you be able to give us a final and definite number about the FRF's cost in 1991?

Answer. The final and definite FY 1991 cost for the FRF cannot be determined until that fiscal year closes. As indicated in our testimony to the Subcommittee and in other reports the final number is based upon interest rates, collections and asset loss levels which are impossible to fully predict. However, as we have also said, we believe our estimates are reasonable for FY 1991 given what we know today.

FY'91 FRF BUDGET ASSUMPTIONS

Question. In determining your 1991 budget estimates, what were your assumptions on interest rates, the value of the assets for which you are responsible, and the condition of the real estate market?'

Answer. Interest rate assumptions are used in calculating two major components of cost: yield maintenance and interest on promissory notes. There are a variety of indexes specified in assistance agreements which govern yield and interest on notes. These include: 26-week T-Bill Rate, 26-week T-Bill Coupon Equivalent, 7th District FHLBank Cost of Funds, 11th District FHLBank Cost of Funds, the LIBOR, and Texas Cost of Funds. Yield adjustments are made quarterly to reflect current market rates. For interest on promissory notes, the weighted average rate of the portfolio is adjusted quarterly. The most recent rate on the note portfolio was 9.6 percent. Real estate values are based on the most current appraisal data available.

TOTAL LIABILITIES OF THE FRF

Question. The present cost estimate for final liquidation of the fund is unclear to us:

- -- Your statement indicated the fund had $ 64 9 billion in liabilities, which we assume represents the total estimated cost, and that this may go up by $ 500 billion.
- -- The Washington Post reports an FDIC announcement that the cost is $ 52 billion.

How are these figures reconciled?

Answer. FRF's liability as of December 31, 1989 was an estimated $64.9 billion. Our current estimate of total fund expenditures is $69.7 billion. The $52 billion is equal to the current estimate of $69.7 billion, but stated in discounted, present value terms.

FRF COST ESTIMATES NET OF OFFSETTING RECEIPTS

Question. Will these figures be reduced by funds from things like asset sales, or other sources?

Answer. Yes, we currently estimate that the total cost, net of offsetting receipts, will be $59.9 billion in undiscounted, nominal dollar terms.

APPROPRIATED FUNDS TO COVER FRF SHORTFALL

Question. Conversely, are these the needs for appropriated funds, and there are additional costs that will be covered with funds from other sources?

Answer. The only reason we ask for appropriated funds is to cover the shortfall in funds from other sources needed to meet the "uses" of FRF funds during the applicable fiscal period. We have only one FRF account and thus we do not have other sources and uses outside of those addressed in our request for $4.0 billion in FY 1991.

Of the projected $59.9 billion in total net cost, we currently estimate that $58.6 billion will require appropriated funds. The difference of $1.3 billion will come from a draw-down in assets transferred from FSLIC at the FRF's inception. Again, these long-term estimates are very imprecise due to uncertainties of economic factors that will determine the amount of assistance payments over the next eight to nine years.

DIFFERENCES WITH THE GAO ESTIMATE FOR THE FRF

Question. Relatedly, GAO testified on April 6 that the total cost of the bailout would be at least $ 325 billion, of which it appears that as much as $ 126 billion could be attributable to the FRF:

FSLIC assistance Transactions	$ 68
FICO Interest expense	31
Lost tax revenue from FSLIC transactions	9
Establish Savings Ass'n Insurance Fund	9
Non-RTC administration and other	9
	$126 Bil

Do you disagree with GAO's estimate, and how does it differ from yours?

Answer. GAO's estimate of $68 billion appears very close to our current estimate of $69.7 billion for FSLIC assistance expenditures. We have not attempted to estimate factors such as foregone insurance premiums withheld by FICO to pay its bondinterest, foregone IRS tax revenues, or the cost of establishing the SAIF account. These are not attributable to the FRF account for budget reporting purposes. Also, it does not appear that GAO has included the FRF's offsetting receipts to determine net cost.

PROSPECTS FOR THE SURVIVAL OF FSLIC ACQUIRERS

Question. A recent GAO report expressed concern that many of the acquirers of failed S&L's in Texas would themselves not be able to survive without FSLIC assistance. If so, what will happen after 10 years, when the assistance agreements expire, and what have we gained during the 10 years except having paid the acquirers a subsidy?

Answer. We agree that default by the FRF on its assistance payments would probably result in the failure of virtually all of the assisted institutions, and would have broad implications with respect to other government obligations as well. Failure resulting from FRF default, however, does not mean that nothing is to be gained from full compliance with the agreements to term. Assistance agreements generally provide capital loss coverage and yield maintenance on "covered assets." Covered assets are defined in each agreement, but generally comprise non-performing commercial loans and real estate owned. Assistance is provided for a term of years in order to give the institutions an opportunity to: 1) manage and dispose of all of the covered assets they acquired; and 2) build a strong, ongoing institution.

The proceeds from the sale of covered assets are to be used to make performing loans and/or reduce expenses (e.g. by paying off FHLBank advances, running-off high interest brokered deposits, etc.). In conjunction with disposing of covered assets and prudently investing the proceeds, acquirers are expected to consolidate and reduce overhead expenses by closing branches. It is hoped that upon the termination of the agreements, the new investments and general down-sizing will have made these institutions viable and profitable. Some will be successful and some will not, but even in those cases where the institution has not become profitable it will have disposed of all or a substantial portion of its covered assets that otherwise would have to be disposed of by the RTC.

COORDINATION OF PROPERTY DISPOSITIONS

Question. Another concern, beyond the cost of the bailout itself, is that it may impact the costs of other federal programs. The news media has reported the possibility of large-volume auctions of S&L properties held by the RTC. Presumably, the FRF is in the same situation. Are you coordinating such actions with FHA, VA, and FmHA, in light of possible impacts on the value of their inventories of repossessions?

Answer. The FDIC's Division of Liquidation holds its own auctions. These are scheduled in such a manner as to minimize the impact on an area at any one time. Also, the number of properties that can be placed in an auction is controlled. Properties with an appraised value greater than $25,000 have reserves placed on them.

To the best of our knowledge, no assisted institutions are planning to auction significant portions of their covered asset portfolios. Any such auction plans would require pre-approval by FDIC/DFO.

Limited discussions have been held with Freddie Mac, Fannie Mae, and Ginnie Mae regarding loan servicing.

MISCELLANEOUS FRF COSTS

Question. Are the assistance payments the only costs the fund is faced with? If not, what are the others?

Answer. The various forms of assistance outlined in response to Question #11 comprise the vast majority of FRF liabilities under the agreements. Other costs and/or potential costs to the FRF include/may arise from: general and administrative expenses (including salaries, contracts, etc.); the actual extent of negative net worth of the institutions that failed; the recommendations of the RTC upon completion of its required review of the 1988 transactions; and toxic waste and environmental problems with some covered assets.

FORECASTS FOR LIQUIDATION AND DISPOSITION OF COVERED ASSETS

Question. Your forecasts go through FY 1996. Is 1996 your estimate of when liquidation will be complete? How certain is that?

Answer. It is anticipated that the liquidation of the assets held by the former FSLIC in its corporate and receivership capacities and now managed by the FDIC Division of Liquidation will be substantially completed by the end of 1996. On the liability side of the FRF balance sheet, the terms of the assistance agreements range from 5 to 10 years. As a consequence, the disposition of covered assets by the acquirers may extend through 1998.

EXTENSION OF ASSISTANCE AGREEMENTS

Question. Most of your assistance agreements are for from 5 to 10 years. Are these likely to be extended?

Answer. No. The present contracts have outside terms not to exceed ten years. There is no contemplation of any negotiations to extend the existing terms.

PREPAYMENT COST SAVINGS POTENTIAL

Question. You said the RTC is assessing the 1988 assisted transactions, which I believe are considered to be the most expensive, for the possibility of paying them off. Are you in a position to speak in at least approximations of what we might be talking about in terms of the amounts of "near-term increases" in expenditures and potential long-term savings?

Answer. Promissory notes were issued to acquirers to cover the negative net worth of the acquired institutions. We cannot give the Subcommittee an approximation of the potential near-term costs and long-term savings at this point. We can, however, provide an illustration for a "generic" assistance transaction of when prepayment may be in the government's best interest. Take, for example, a $500 million note for ten years, issued in mid-1988 and paying an annual interest rate of 9.25 percent (the Texas cost of funds is now 8.75 percent plus an average, negotiated increment of 50 basis points = 9.25 percent). Under the assistance agreement, the FRF is obligated to pay the annual interest on this note for another eight years ($46,250,000 per year = $370 million over eight years) at which point the principal of $500 million becomes due.

The current rate on ten year Treasury notes is approximately 8.5 percent. Since the Treasury rate is substantially less than the rate on the existing note, it would make sense to prepay the "generic" FSLIC note, all other factors being equal, with resulting savings of $30 million ($3,750,000 per year = $30 million over eight years). It should be noted that not all assistance agreements allow prepayment, and some that are prepayable require a prepayment penalty. In addition, some agreements provide for a low, fixed rate in which case prepayment would not make sense. The tax benefits accruing as a result of the agreements also need to be considered in the prepayment analysis.

DEADLINE FOR RTC REVIEW OF POTENTIAL COST SAVINGS

Question. When will you be able to tell us when you have reached a decision on whether to "buy out" some of these assistance agreements in 1990 or 1991, and what the up-front cost increases and long-term savings will be?

Answer. Our decision will probably not be made until sometime during the Fall, after we have analyzed the results of the RTC review and discussed the issue of availability of cash with Treasury. An approximation of near-term costs and long-term savings will not be available until a detailed analysis of the effect of prepayment on each institution has been completed.

FEDERAL REGULATION OF THE THRIFT INDUSTRY

Question. Because of your publicly stated intention not to complete your full term as FDIC Chairman, your views on the present situation would be greatly appreciated and respected. If you were advising this Subcommittee, what actions would you be telling us or the Administration to take, which we are not now talking, to avoid further liability in the S&L or entire financial services industry?

Question. Do you think the current structure for how the government manages the S&L industry could be improved? If so, how?

Question. What are specific steps you would encourage the President and/or the Congress to take to improve the health of the S&L industry?

Answer. I will answer these questions together. We face two distinct tasks as we attempt to resolve the problems facing the S&L industry. The first and immediate task is to deal with the current problems at the lowest possible cost to the taxpayer. In our search to minimize costs, we must ensure that we are finding effective solutions rather than simply deferring costs to future years. The second task is to design a more rational framework for regulating our insured banks and thrifts. The best way to prevent a repetition of the current crisis is to create an environment in which safe and sound institutions can succeed in the competitive arena.

Minimizing the Cost of Current Problems. With regard to the first task, once an S&L goes to the RTC there are a limited number of options available for reducing costs. One is to attempt to sell whole franchises, that is, find acquirers who are willing to take on the problem assets of the failing institution. This has proven very difficult. We do not want to extend to the acquirers blanket guarantees for long periods of time on the performance of these assets. This would result in long-term open-ended cost exposure for the taxpayer and would probably remove any incentive for the acquirer to do a good job managing the problem assets. Lacking such guarantees, however, most acquirers are simply not interested in taking on high-risk problem real-estate assets, or will do so only at an unacceptably high cost to the RTC. Subject to these constraints, the RTC has attempted to induce acquirers to take on more assets by lengthening the "put-back period," during which acquirers can return assets to the RTC, from six months to 18 months.

The other major option for the RTC is to dispose of assets as efficiently as possible. Unfortunately, "as efficiently as possible" is apt to be very expensive and time consuming, especially in today's real estate markets. Investors do not like risk, and have to be paid to assume risk. The RTC is marketing many high-risk commercial real-estate and construction projects, and the prices received will reflect the risks investors are being asked to assume. Similarly, in the marketing of the RTC's loan assets, prices will reflect buyers' uncertainty about borrowers' ability to pay. In short, there is no getting around the fact that a government liquidation of assets is very expensive.

Given the cost of RTC asset disposition, one is led to consider ways to prevent assets from coming to the RTC in the first place. For some institutions, RTC conservatorship may not be the most appropriate solution. Consider the arguments put forward by certain executives of failed S&Ls (that the RTC caused their problems):

> Heavy-handed government bureaucrats seize an institution which is financially viable. The institution's best deposit and loan customers soon begin to leave. An RTC managing agent, a career

> civil servant who has no experience in running a financial institution, is put in charge. As a result, a once viable S&L has soon deteriorated beyond repair.

This scenario, of course, ignores the reality that RTC conservatorship may be very appropriate in many cases. Thus, consider an institution which is insolvent or is technically solvent only because the financial statements do not reveal the existence of massive credit quality problems or losses in marketable securities. Management may have displayed a pattern of undercapitalized growth, speculative investment or insider abuse. In normal times, this institution would be liquidated within a reasonably short time or it would be merged into another institution and its management replaced. Because of the huge backlog of cases facing the RTC, however, the RTC takes over the institution and prevents it from taking on any new risks while it awaits resolution.

There are two ways costs might be saved by keeping institutions out of the RTC. One is to find merger partners for the institutions prior to their ever having to enter conservatorship. In this regard, the FDIC is exploring options for improving the marketing of viable but undercapitalized nonconservatorship thrifts. The OTS's "Matchmaker Program" is an example of the type of initiative that could become important in reducing costs to the RTC.

Another approach that may be appropriate for well-managed institutions is some type of open-thrift assistance. Provided assisted institutions are examined frequently and it is clear to management that improper actions will result in prompt government takeover, costs may be reduced as compared with the alternative of government liquidation or a forced sale to reluctant investors. The FDIC is studying the feasibility of various approaches to open-thrift assistance.

It cannot be emphasized too strongly that we must not repeat the mistakes of the past. A large-scale program of open-thrift assistance would represent capital forbearance to troubled institutions. The costs of that policy having been applied to the S&L industry for much of the 1980s are staggering. For this reason, any open-thrift assistance that is granted must be accompanied by frequent examinations of the assisted institutions and the authority and willingness to take over the assisted institution if the government's loss exposure appears to be increasing.

Preventing the Recurrence of Current Problems. Perhaps the only positive aspect of the thrift crisis, and the failure of many banks in recent years, is that it has taught us a great deal about how easy it is for deposit insurance costs to get out of control. As you know, the Treasury is conducting an interagency study of deposit insurance reform in which the FDIC is a participant.

Looking to the future, it is clear that we need strong capital standards for insured depository institutions, and that those standards need to be enforced. What the magic capital number is and whether it should be based on the market value of marketable securities, I can only tell you at this time that the FDIC is studying the matter.

It has always been clear in theory, and has now become obvious in practice, that deposit insurance can be a highly distortionary and costly government intervention in the marketplace. For this reason it makes great sense to limit the activities that can be funded with insured deposits. A consensus seems to be emerging within the FDIC that activities allowable to an insured entity should be no more extensive than those allowed to a national bank. Some on the FDIC staff would go further and impose concentration limits on various activities based on percentages of capital or assets.

At the same time we impose new restrictions on insured entities to improve safety and soundness, we must liberalize the conditions under which bank holding companies operate. If we do not do this, we will find banks becoming increasingly unprofitable and the insurance funds being exposed to greater losses.

Subject to appropriate firewalls, insured banks should be allowed to affiliate with any commercial or financial entity, and these entities should operate subject only to the capital regulation imposed by the marketplace. This was the message of the FDIC's 1987 study Mandate for Change, a message which is becoming more timely as Europe 1992 approaches. We should also seriously consider phasing out or eliminating branching restrictions. Intrastate and interstate branching restrictions are outmoded and serve only to inhibit geographic diversification and increase insurance costs.

HEALTH OF THE THRIFT INDUSTRY

Question. What questions should this Committee be asking of your successor this time next year to evaluate the health of the S&L industry?

Answer. The OTS has recently divided the nonconservatorship segment of the S&L industry into four groups. Group IV consists of 299 thrifts expected to go to the RTC. Group III consists of 315 thrifts which are "troubled with poor earnings and low capital." Group II consists of 621 thrifts which "meet or are expected to meet capital requirements," and Group I consists of the remaining 1,267 nonconservatorship thrifts which are well capitalized and profitable.

I think the most interesting question that can be asked next year is, how are the borderline thrifts in groups II and III doing? This is the question which is going to be most important in determining the ultimate cost of the thrift crisis.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

THREE YEAR GOALS AND OBJECTIVES TO SUPPORT THE STRATEGIC PLAN FOR THE DIVISION OF FSLIC OPERATIONS

INTRODUCTION:

The Division of FSLIC Operations ("DFO") is assigned the responsibility to administer the assistance obligations of the FSLIC Resolution Fund ("FRF"). Key to the DFO fulfilling the FDIC's mission is the establishment of staffing, systems, and controls to ensure that assets, subject to financial assistance, are disposed of in a prompt orderly manner and are prudently managed by the assisted institutions. The goals and objectives set forth below support this key point.

In the first major goal noted below, disposition targets have been established for the next three years. Establishing written targets conveys the FDIC's minimum expectations to each assisted institution and to the staff.

The rate of disposition varies from institution to institution and is based on the unique composition of each portfolio. For example, portfolios which are comprised primarily of loan assets will decline at a slower pace than portfolios with higher levels of owned real estate assets. This is due to the time intensive process of obtaining title to the real estate securing the loans that go into default.

Because of the depressed nature of the real estate market in many areas of the country and the quality of certain properties, a portion of the real estate sales will have to be financed by the assisted institutions. New loans originated to facilitate real estate sales will in most instances become covered assets and added to the portfolios. Because such loans remain in the covered asset portfolios actual real estate sales are expected to occur at a faster pace than the overall decline in the portfolios.

To fulfill the FDIC's mission, DFO has identified the following major goals:

1. Manage the acquirers' disposal of covered assets within the term of the assistance agreements to ensure orderly dispositions at minimum cost to the FRF while maximizing asset values.

2. Identify and implement recommended ways to reduce the cost of assisted transactions and the management thereof.

3. Effect the permanent resolution of the stabilized institutions during 1990, providing new management, capitalization and a lower estimated cost to the FRF.

4. Establish operational relationships with regulatory and other Governmental entities which affect the responsibilities of the FDIC as manager of the FRF and the ability of assisted institutions to fulfill their contractual obligations to the FRF under the assisted transactions.

5. Improve the process of monitoring the Associations' asset management performance and compliance with the terms, conditions and standards of the Assistance Agreements.

6. Develop and implement an enhanced management information system that will be an effective resource in the management decision making process, especially covered asset disposition tracking.

7. Provide adequate staff resources for the efficient administration of the assistance agreements and improve internal controls necessary to support a larger more decentralized operation in DFO.

These goals reflect the intentions of the DFO to manage the assisted transactions in a manner that minimizes the costs the FRF. Implementation of the results from the Resolution Trust Corporation's ("RTC") review of the 1988 assisted transactions may necessitate changes to these goals.

GOAL 1: Manage the acquirers' disposal of covered assets within the term of the assistance agreements to ensure orderly dispositions at minimum cost to the FRF while maximizing asset values.

- Monitor and update as necessary the following covered asset disposition targets established for each of the next three years:

DATE	TARGET BALANCE (in millions)
DECEMBER 31, 1989	$35,854 (actual)
DECEMBER 31, 1990	30,124
DECEMBER 31, 1991	26,355
DECEMBER 31, 1992	22,921

-In order to further facilitate the timely disposition of covered assets, DFO will assess the asset disposition and management decisions that require DFO approval prior to implementation by the acquirers to determine if additional authority should be delegated to those institutions that have demonstrated superior performance in managing covered assets.

Target Completion Date: December 31, 1990

-Issue a continuing series of policy statements to the FDIC staff and the acquirers to provide formal FDIC guidance in the disposition and management of the covered asset portfolios. Topics to be addressed in this series, include, but are not limited to the following:

TOPIC	TARGET DATES
Financing Asset Sales	Completed
Marketing of Assets	June 30, 1990
Hold vs. Sell Decisions	July 31, 1990
Prioritization of Asset Dispositions	August 31, 1990
Considerations for the FDIC's Purchase of Covered Assets	September 30, 1990
Discounted Loan Payoffs	July 31, 1990
Bulk Sales or Structured Disposition of Large Groups of Assets	December 31, 1990
Recognizing losses through the Writedown of Assets	June 30, 1990

GOAL 2: Identify and implement recommended ways to reduce the cost of assisted transactions and the management thereof.

-During 1990, complete a program to renegotiate various capital instruments held by the FRF to facilitate: 1) the disposition of FRF owned securities at fair values; 2) compliance with acquirers' FIRREA capital requirements; and 3) mutual-to-stock conversions.

Target Completion Date: December 31, 1990

-Implement a plan to reduce reliance on support contractors by one-third by year end 1990.

Target Completion Date: December 31, 1990

-Establish a task force and develop preliminary recommendations for achieving cost savings to the FRF (i.e. prepayment of promissory notes, writedowns of covered asset) given the availability of additional funding. Attached as Exhibit C is a chart showing the maturity schedule of the promissory notes assuming no prepayments.

Target Completion Date: September 30, 1990

-Upon completion of the RTC's review of the 1988 transactions, provide Treasury with funding requirements for restructuring 1988 assisted transactions.

Target Completion Date: 30 Days Following Approval of the RTC Review

-Together with the Legal Division, implement procedures to monitor both transaction and litigation legal costs reimbursable under the assistance agreements

Target Completion Date: July 31, 1990

-Establish policies and procedures to administratively mediate and resolve conflicts among entities supported by the FDIC/RTC to reduce legal expenditures.

Target Completion Date: June 30, 1990

GOAL 3: Effect the permanent resolution of the stabilized institutions during 1990, providing new management, capitalization and a lower estimated cost to the FRF.

-Competitively market the institutions to third parties as long as the cost of resolutions are less than the cost structures of the existing agreements.

-Work with and through the RTC marketing division to identify qualified third party bidders for the institutions.

-For the institutions that cannot be resolved for less than the existing cost of assistance, establish a process to either turn them over to the RTC or obtain other assistance to supplement the FRF assistance in order to affect a permanent resolution.

Target Completion Date: December 31, 1990

GOAL 4: Establish operational relationships with regulatory and other Governmental entities which affect the responsibilities of the FDIC as manager of the FRF and the ability of assisted institutions to fulfill their contractual obligations to the FRF under the assisted transactions.

-Provide Treasury with projected cash flow estimates for existing cases on a continuing basis.

Projections are Currently Provided on a Monthly Basis.

-Identify dedicated staff to facilitate and assist the RTC's review of the 1988 cases and later implement their recommendations for achieving cost savings as mandated by FIRREA.

Dedicated Staff has been Identified to Assist the Review.
Establish Implementation Team by August 31, 1990

-Strengthen the liaison with supervision in the Office of Thrift Supervision ("OTS") and the FDIC Division of Supervision ("DOS") by adding an experienced bank regulator to the DFO staff.

Completed

-Establish a program of periodically providing updated information to the press previously provided by the OTS and to Congress on the actual and projected cost of the assisted transactions to ensure the public is kept informed.

Target Completion Date: June 30, 1990

-Reach an agreement with the Federal Housing Finance Board regarding the interpretation and implementation of substantially more restrictive collateral requirements for obtaining Federal Home Loan Bank advances that impact upon the borrowing capacity of assisted institutions. Premature acceleration of advances may result in increased deposit costs and increased assistance costs. To the extent the advances are guaranteed by the FRF, acceleration of the advances would result in accelerated Treasury payments to the FRF.

Target Completion Date: August 31, 1990

-Working closely with the OTS and the Office of the Comptroller of the Currency, obtain an exemption from more restrictive loans to one borrower and subsidiary investment limitations in order to reduce the additional cost that these restrictions could create by limiting the assisted institutions' ability to restructure or dispose of covered asset portfolios.

Target Completion Date: June 30, 1990

-Reach an agreement with the RTC on the disposition of open assistance agreements with acquiring institutions that fail and are placed into RTC receiverships.

Target Completion Date: September 30, 1990

GOAL 5: Improve the process of monitoring the associations' asset management performance and ensure compliance with the terms, conditions and standards of the assistance agreements.

-Develop policies and procedures with the Office of the Inspector General to support a timely and effective compliance audit program to use as a tool in verifying the assisted institutions' compliance with the assistance agreements.

Target Completion Date: September 30, 1990

-Establish procedures to annually review the tax returns of assisted institutions to ensure that tax benefits due the FDIC are paid.

Target Completion Date: December 31, 1990

-Implement regulatory examination procedures with the DOS and the OTS to enable staff to coordinate additions to the development of the examinations' scope to include special concerns regarding the compliance with the assistance agreements.

Target Completion Date: July 31, 1990

-Implement procedures for periodically conducting formal reviews and assessments of the quality of the assisted associations' management of assets and adherence to their own policies and procedures.

Target Completion Date: September 30, 1990

-Continue special investigations of complaints, marketing efforts, etc. without the knowledge of the associations.

This is an Ongoing Effort.

GOAL 6: Develop and implement an enhanced management information system that will be an effective resource in the management decision making process, especially covered asset tracking.

-Assess the information processes under development to determine compatibility with existing FDIC systems. An internal task force was established in March 1990 comprised of staff from DFO and the Division of Accounting and Corporate Services.

Target Completion Date: September 30, 1990

-Define and develop new information systems necessary to monitor the covered assets for use throughout case management.

Target Completion Date: March 31, 1991

-Define and implement uniform reporting requirements for management.

Target Completion Date: September 30, 1990

GOAL 7: Provide adequate staff resources for the efficient administration of the assistance agreements and improve internal controls necessary to support a larger more decentralized operation in DFO.

-Fill 70 new positions allocated to field offices in Southern California and Texas to further decentralize DFO, to expand case management operations and to reduce reliance on support contractors. Attached as Exhibit D is a geographic distribution of the assistance agreements.

Target Completion Date: December 31, 1990

-Shift the management of 19 assisted transactions to the field office located in Southern California.

Target Completion Date: December 31, 1990

-Establish a formal training program to ensure appropriate levels of knowledge in the management and disposition of covered assets.

Target Completion Date: December 31, 1990

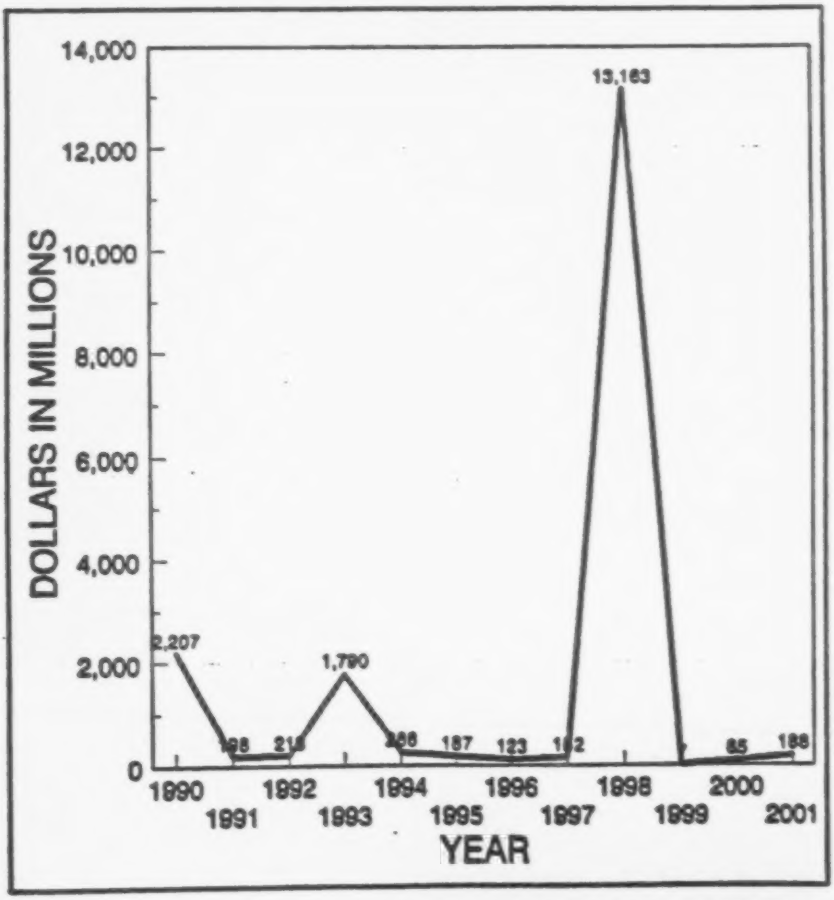
-Expand the field staff of the Legal Division to allow closer monitoring of litigation subject to FRF indemnification under the assistance agreements.

Target Completion Date: December 31, 1990

-Establish an internal case compliance review program to ensure staff is properly following internal delegations of authority and operating policies and procedures in the administration of the agreements.

Target Completion Date: September 30, 1990

FSLIC RESOLUTION FUND
SCHEDULE OF PROMISSORY NOTES MATURING BY YEAR

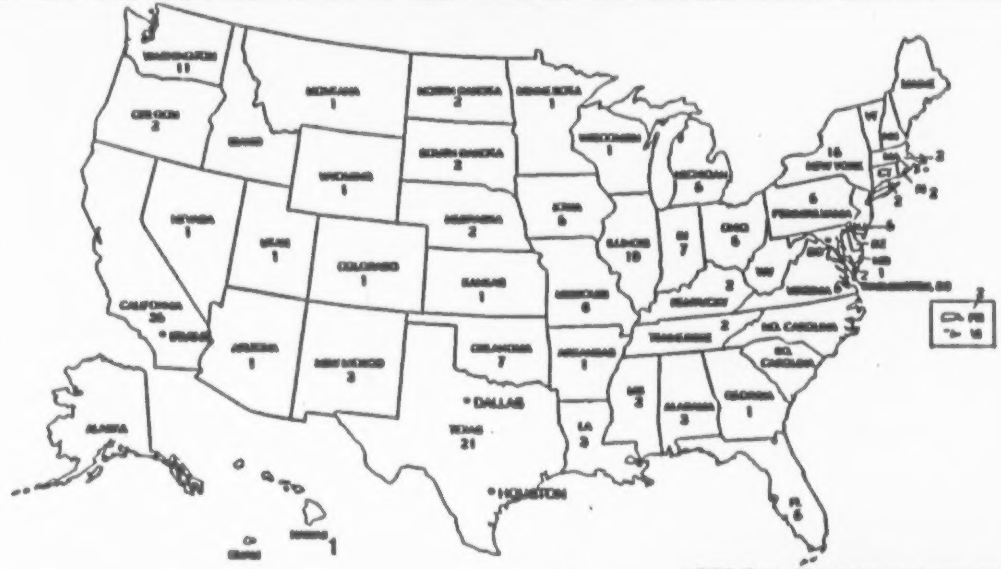


FEDERAL DEPOSIT INSURANCE CORPORATION
Division of Accounting and Corporate Services
FDIC

EXHIBIT C

EXHIBIT D

FSLIC RESOLUTION FUND
ASSISTANCE TRANSACTIONS BY STATE
DECEMBER 31, 1989


WASHINGTON
11
OREGON
2
IDAHO
MONTANA
1
NORTH DAKOTA
2
MINNESOTA
1
SOUTH DAKOTA
2
WYOMING
1
NEVADA
1
UTAH
1
COLORADO
1
NEBRASKA
2
KANSAS
1
IOWA
5
CALIFORNIA
26
• IRVINE
ARIZONA
1
NEW MEXICO
3
OKLAHOMA
7
• DALLAS
TEXAS
21
• HOUSTON
ALASKA
HAWAII
1
GUAM
WISCONSIN
1
MICHIGAN
6
ILLINOIS
10
IN
7
OHIO
5
MISSOURI
6
ARKANSAS
1
LA
3
MS
2
ALABAMA
3
GEORGIA
1
FL
6
KENTUCKY
2
TENNESSEE
2
NO. CAROLINA
SO. CAROLINA
VIRGINIA
6
WV
NEW YORK
16
PENNSYLVANIA
6
MAINE
VT
NH
MA
2
CT
RI
2
2
6
DE
MD
1
2
WASHINGTON, DC
2
PR
VI

* DFO Case Management Locations
TOTAL ASSISTANCE TRANSACTIONS - 202

FEDERAL DEPOSIT INSURANCE CORPORATION
Division of Accounting and Corporate Services
FDIC

RESOLUTION TRUST CORPORATION

STATEMENT OF JOHN J. ADAIR, INSPECTOR GENERAL

INTRODUCTORY REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. We are now going to take testimony from the newly established Office of Inspector General of the Resolution Trust Corporation.

We want to welcome Mr. John Adair, the inspector general. Mr. Adair, we welcome you and we note that you are a former employee of the General Accounting Office where your job was to audit the inspectors general throughout the Government. So, you audited the inspector general's.

Well, we do not envy your task, but we want you to know that this subcommittee will stand firmly behind you and do all that we can to ensure you have the tools to do your job right.

Your full statement will be included in the record, and we would ask you to summarize and essentially tell us the resources you need and what your office will be doing. And perhaps for the record, you will include the functions of the RTC.

SUMMARY STATEMENT

Mr. ADAIR. All right. I will be glad to summarize my statement, Madam Chair.

As the statement indicates, prior to my coming to RTC, a decision was made through the workings of the staff of the Oversight Board and OMB that my office should initially be staffed at a level of 150 people, and there is approximately $11 million in the President's budget for that staffing. I am not sure exactly what the level should be. I think 150 is a good beginning. It may turn out that we need substantially more than that.

STAFF RELOCATION RECOMMENDED

I have had discussions with Chairman Seidman, who is chairman of one of the boards I report to. I report to both the Oversight Board and the RTC Board, as well as semiannually to the Congress. Chairman Seidman is of the opinion—and I agree—that our staff should be located in each of the regional and perhaps even all of the consolidated offices of the RTC because that is where the deals are being made and that is where the conservatorships are being managed and so forth. And as you can see, with four regional offices and 14 consolidated offices, that would absorb about 100 of our staff at the rate of about 7 per consolidated office pretty quickly.

And so, 150 people may not be enough to audit and investigate what is going on within the RTC. We could need substantially more, but I do not know at this time what our final number might be. So, I would ask that we be permitted to go ahead at the original rate of staffing, and let the two boards that I report to and, if necessary, let the Congress know when and if we need additional staff.

[The statement follows:]

STATEMENT OF JOHN J. ADAIR

Madame Chair and members of the Subcommittee:

I appreciate the opportunity to be here today to discuss the organization and operations of the Office of Inspector General of the Resolution Trust Corporation (RTC).

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) contained a provision for an Inspector General at the RTC who would be appointed by the President, confirmed by the Senate, and would operate under the provisions of the Inspector General Act of 1978, as amended. Last month, I was sworn in as the RTC's first Inspector General.

Today, I want to talk about the areas where we expect to concentrate our efforts initially and the planned organization and staffing of my office.

RTC'S OPERATIONS

Before I discuss how my office will operate, I want to give you a brief summary of how the RTC is structured because it affects how my office should be structured. The RTC will have more than 5,000 people, the vast majority of whom will be located in 4 regional and 14 consolidated offices throughout the country. The RTC is divided into three major groups: (1) resolutions and operations, (2) asset and real estate management, and (3) finance and administration.

In general, when the Office of Thrift Supervision declares a thrift insolvent, it turns it over to the RTC which generally operates it as a conservatorship (to conserve the thrift's assets) until it can be "resolved." A resolution occurs when RTC finds a buyer for the failed thrift or determines that it is more cost effective to pay off the depositors, either directly or through another thrift. Usually, when a thrift is resolved, the RTC ends up with some or all of the thrift's assets. It must then manage those assets and market them, with a goal of disposing of the assets at the least cost. RTC currently has about 350 conservatorships with assets approaching $200 billion. It also has over $13 billion of assets in receivership. Some have estimated that the number of thrifts to be resolved will reach 600, and that the assets under RTC's control will reach $300 billion or more.

AREAS TO BE AUDITED AND INVESTIGATED

With this in mind, it is clear that there are a number of areas that are going to require review by my office, including:

-- the operation, by RTC's managing agents, of the thrifts placed in conservatorship up to the point when a resolution occurs;

-- the resolution process for each conservatorship, to ensure that it is carried out at the least cost;

-- the management of the assets that remain with the RTC after a thrift has been resolved;

-- the marketing and sale of those assets;

-- the controls over the funds involved in all of these areas;

-- the management information system that must be established to ensure that RTC management gets consistent and comparable information from its conservatorships, receiverships, and regional and consolidated offices throughout the country;

-- the controls over contracting for services that will occur as the RTC deals with the 30,000 firms on its bidders list; and

-- the ethical behavior of the RTC employees as they carry out their mission.

In addition, my office will monitor the work of a group of some 300 to 400 RTC people whose job it is to review failed thrifts to see whether the directors, officers or employees of those thrifts were involved in fraudulent actions that aided or resulted in the collapse of the thrifts.

SIZE AND LOCATION OF THE RTC INSPECTOR GENERAL'S OFFICE

For fiscal year 1991, the amount in the President's Budget for the RTC Inspector General's Office is about $10.8 million. I understand that this number, which was arrived at before I was sworn in, was developed through discussions between the Office of Management and Budget (OMB) and the staff of the Oversight Board. It was based on an assumption that the size of my office would be comparable to that of the Federal Deposit Insurance Corporation (FDIC) Office of Inspector General, which at that time was planned to be 150 people. A determination was made that the amount needed to support 150 people, including provisions for training, travel, computers, etc. would be a little under $11 million.

Discussions with Chairman Seidman, representatives of the RTC, the Oversight Board, and others have led me to believe that most of my staff should be located in the regional and consolidated offices of the RTC. My preliminary estimates are that about two-thirds of the 150 staff will be placed in the field offices. The remaining one-third would be in Washington. If my staff increases over the next few years, I would anticipate that most of that increase would be in the field offices.

What should the size of my office ultimately be? It is too early to give a definitive answer to that question. However, it is obvious that putting just a few auditors and a few investigators in each of the 4 regional offices and 14 consolidated offices would quickly consume all of the 100 or so staff that we have budgeted for those offices.

Perhaps when we reach the level of staffing we are budgeted for, we will find it is sufficient. Certainly, if we find that we can accomplish our mission with fewer than 150 people we will do so.

On the other hand, if it is clear that 150 people are not sufficient to provide the review capability that RTC's operations require, I intend to make that known to the RTC Board of Directors, the Oversight Board, and OMB as soon as I become aware of that fact.

That concludes my testimony. I want to thank the Subcommittee for inviting me to testify about our plans for the Inspector General Office at the RTC. I will be happy to answer any questions you may have at this time.

RTC ACTIVITIES

Senator MIKULSKI. Mr. Adair, first of all, know that as we go through our appropriations process and certainly the markup of this subcommittee, which now seems will be delayed because of the budget process, et cetera, that you can come in and revise your estimates to us at any time because we feel that your office is one of the most important oversight offices that we will have in this function.

My question is how can we get you up and running as quickly as we can?

Do you see any activities of the RTC as unusually vulnerable to fraud, abuse, or mismanagement?

Mr. ADAIR. Well, I visited the Atlanta regional office last week and looked at the regional office, the consolidated office, a conservatorship, a receivership and talked to the staff that are involved in RTC's operations. It appears that there is going to be an extensive amount of contracting out to the private sector for asset management and sales. I think, obviously, that has to be monitored carefully to make sure that there is a minimum amount of fraud, waste, and abuse. I think that is one area where we want to make sure there are sufficient inspector general resources devoted.

Senator **Mikulski**. What can you do to bring your activity on line as quickly as possible?

Mr. **Adair**. Well, I am working with both boards, the RTC Board and the Oversight Board. We have prepared our organization and staffing plan, and I think we have general approval for our plan to put most of our staff in the field. We have prepared position descriptions and are about to go forward with vacancy announcements. I think we are proceeding about as quickly as we can and I think that the hiring will tend to snowball after we get those vacancy announcements on the street. We would like to move even faster, and if there is anything that your committee can do to help us, we will certainly let you know.

Senator **Mikulski**. Has the limited lifespan of the RTC affected your staff recruiting? Also, if you do hire Federal auditors, do they have or would they need reemployment rights with other agencies?

In other words, you are going to have to be recruiting some people with very sophisticated skills which are in high demand in the marketplace. So, you are competing with both other Government agencies where there is a permanency, an IRS person, and so on. You know those audit skills and I will call them Treasury Department skills. I am really asking this from not only my hat as an appropriator, but the appropriator on Treasury, Post Office that deals with civil service issues.

Has the limited lifespan of the RTC affected your staff recruiting? And if you do hire Federal auditors, do they have or would they need reemployment rights with their previous agencies? Would you think that is a good idea?

Mr. **Adair**. Well, I do not think it has affected us because we have received a rather large number of 171 forms and requests to come and interview with us. I think that there are a lot of people that would like to get involved in this. They see it as an interesting and exciting challenge to work in this area, and quite honestly the question of reemployment rights really has not come up in any of the interviews that we have conducted with various auditors and investigators we have talked to. So, I would hope that would not be a problem for us.

INSPECTOR GENERAL FUNCTIONS

Senator **Mikulski**. Will the inspector general also serve in an investigative role or will your function be limited to an audit one?

Mr. **Adair**. We will be both audit and investigative, and we will be bringing on board—we are working with the Office of Personnel Management to get approval to hire criminal investigators, series 1811 criminal investigators. All of the other statutory inspectors general, Presidentially appointed inspectors general, have that type of investigator, and we feel that is necessary also at the RTC. We think that we will have that authority soon, and we will begin hiring those types of investigators. So, we will have both.

Senator **Mikulski**. So, you will be hiring S&L sleuths.

Mr. **Adair**. Sleuths; yes.

ANNUAL WORK PLAN

Senator **Mikulski**. Are you developing an annual work plan, both a strategic plan and annual work plan? And when would they be available for this committee?

Mr. **Adair**. We are working on that. And part of the process, of course, is to visit these regions and conservatorships just to see how the RTC operates both at headquarters and in the field, and then use that information as a basis for developing our strategic plan and our annual work plan. That is the kind of thing that when I was with GAO I looked for in the other inspector general offices. We wanted them to have those kinds of plans, and we certainly will have them in our office.

I cannot tell you how quickly we will have that. It depends somewhat upon how quickly we get staffed, but one of our main priorities is to get those plans put together.

Senator **Mikulski**. In your first year and also as part of this, do you intend to monitor the resolutions as they take place or review them after the fact?

Mr. **Adair**. Well, I do not think we could do them all as they take place. They are occurring in pretty rapid order right now. And, of course, our staff is at a minimum level, but we would certainly intend to look at them, if not all, at least on a sample basis. And, of course, any indication that there was a problem—if we hear by way of the Congress or directly that a bid was unfair and so forth, we would immediately look into that area rather than try and look at every resolution as it occurs.

Senator **Mikulski**. Thank you.

ROLE OF INSPECTOR GENERAL

Mr. Adair, this Senator has found the function of an inspector general to be a very important tool to her as a Senator in a variety of agencies. And we will be looking forward to your role there too.

One always thinks of the inspector general as investigating fraud and abuse. We encourage you to do your job, and we want to back you to the fullest. But an additional role that an inspector general often plays is looking at management practices that either impede or help an agency fulfill its mission and also how we could even get a better deal for our bucks.

An example I would like to give is that the inspector general from AID has come up with many very important management reforms to be sure that the money we appropriate in foreign aid for the poor goes to the poor and none gets squandered in the bureaucracy or currency exchanges. Just the way he has handled that has been just so extremely helpful.

When you read the organization chart of FIRREA, it is like a Rube Goldberg cartoon, only this is no laughing matter. So, we are going to look to you to do your mission and to back you to make sure that there is no fraud, that there is no abuse, but we will also look forward to the management-type reviews.

I note that for the most part the press left to go follow Mr. Seidman, and Secretary Brady's testimony was a blockbuster and a budget buster today. But I would venture to say when you roll in here next year, it is going to be packed. Or I hope it is the dullest hearing we have ever had. I vote that what you have found is that everything has run so smoothly that it is just dull.

Mr. **Adair**. That would be nice, Madam Chair.

And I want to assure you that in addition to fraud, waste, and abuse, certainly the management of RTC is near the top of our priorities, particularly the economy and efficiency of operations. We will be taking the broader view, not just looking at the narrow, individual cases of theft or what have you. We will be looking for ways to improve controls over RTC's operations.

Senator **Mikulski**. Thank you very much, and good luck.

Mr. **Adair**. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator **Mikulski**. We will be submitting some questions for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Question 1: What do you see as some of the key issues you will have to address?

Essentially, RTC's mission is to resolve troubled thrifts and dispose of their assets in accordance with the objectives established by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). As such, the key issues we will address will relate to how well RTC meets those objectives. Specifically, the key issues we foresee include (1) whether RTC's resolution actions result in the least cost to RTC and allow for fair access to bidding, (2) whether RTC has adequate systems to manage and report on its activities, (3) whether the process of liquidating assets is conducted in accordance with laws, regulations, and RTC policies and procedures, and (4) whether RTC has adequate controls to prevent and detect fraud, waste, and abuse in all of its operations. Our work will also address the impediments RTC faces in resolving troubled thrifts and selling assets and what needs to be done to remove them or mitigate their adverse effect, and whether RTC contractors and outside legal counsel are receiving adequate supervision and monitoring.

Question 2: What activities do you plan to focus on in the first year?

In addition to staffing and organizing my office and developing strategic and annual plans, we will be responding to several requests we have already received--monitoring RTC's Information Resources Management (IRM) plans and activities, evaluating letters received by RTC's Office of Legislative Affairs for trends that may indicate larger problems, and reviewing RTC's bidding procedures and the sale of a particular thrift to ensure it resulted in the least cost to RTC. We will also be responding to several allegations of potential fraud/misconduct we have received. As we increase our staffing level, we will begin addressing the major issues outlined in our response to question 1.

Question 3: We recognize it will take some time to get your operation up and running, when starting from scratch. You indicated in your statement, however, that the RTC is moving forward with its resolutions now. Our concern is how far they are going to get without any IG oversight.

Question 3a: How many resolutions have taken place thus far?

As of May 14, 1990, RTC had resolved 94 troubled thrifts and had 330 thrifts in conservatorship awaiting resolution action.

Questions 3b: Do you see this as a problem from your perspective?

Obviously, we would have preferred to be in place and operating when RTC began operations. Nonetheless, because RTC had to bring staff on board and develop and implement its policies and procedures, it has proceeded somewhat cautiously. For example, it has not yet awarded any major contracts, has just recently begun to pick up the pace of resolutions, and has sold relatively few assets given the amount of assets it will eventually control. Further, most of its resolutions have been insured deposit transfers involving smaller institutions, transactions that many of the RTC staff have had substantial experience in doing through their employment with the Federal Deposit Insurance Corporation. Therefore, we believe that we will soon be able to "catch-up" with RTC and have a positive influence on its operations.

Question 3c: In the meantime, should we require, or should you negotiate, an interim presence by someone like the Treasury IG or GAO? (We know that FIRREA mandated a GAO presence, but it appears that those mandates may be for putting a price tag on the bailout, financial statement-type work, etc., and presumably not a duplication of the work your office was intended to perform.)

We do not believe that such a requirement is necessary at this point. As discussed in our response to question 3b, we believe that we will soon be able to catch-up to RTC. Further, GAO has put RTC on its priority list, has established a new group solely to review RTC operations and programs, and is currently doing several operational reviews of RTC including a review of its Management Information System plans and organizational structure. In addition, RTC has established several mechanisms to "police" itself. For example, it has established internal review positions at each of its 14 consolidated offices, has an office that conducts operational reviews of the conservatorships, and has a program to evaluate the managing agents at conservatorships.

Question 3d: Would you see merit in some interim contract audits, as another alternative?

We currently anticipate using contract audits to supplement our own work in the short-term, and possibly even in the long-term. Nonetheless, contracting also requires having staff on-board to identify potential work and scope out the work to prepare solicitations and requests for proposals.

(Note: No Question 4 submitted)

Question 5: In identifying causes and possible solutions to problems, wouldn't you have need for access to OTS, REFCORP, or the like? Will this be a problem?

It is quite possible that we will need access to personnel and/or information at other related agencies, especially OTS. We do not currently foresee any difficulties in obtaining such access or in coordinating our work with the Treasury IG, who has responsibility for OTS. We should also note that the Director of OTS serves on the RTC Board of Directors and that the RTC Oversight Board also oversees REFCORP's operations. Further, we have contacts at REFCORP who I am sure will provide us any information we may need.

Question 6: What staffing levels do you plan to reach for fiscal years 1990 and 1991?

We anticipate having 55 staff on board by the end of fiscal year 1990 and are planning to have 150 on board, the most that can be supported by our fiscal year 1991 appropriation, by the end of fiscal year 1991. I should note that, if we determine that 150 staff are insufficient to adequately fulfill our mission, we will request any additional funds that may be needed.

Question 7: How many do you have on-board thus far?

Currently, we have 4 people on-board. However, we are well on our way to hiring more. We have prepared position descriptions and submitted the paperwork to have positions classified and vacancy announcements posted, have interviewed numerous candidates for jobs, have received concurrence from the Oversight Board and the RTC Board of Directors for our organizational structure, and have submitted the necessary paperwork to the Office of Personnel Management to obtain the authority to hire criminal investigators.

Question 8: Can you estimate when you expect to become operational; i.e., beginning audits or reviews?

We are currently working on a congressional request we received and anticipate being able to start more reviews during June and July 1990.

Question 9: How much money was allocated to the Office of Inspector General for 1990?

My office currently has $4.6 million allocated to it for fiscal year 1990.

Question 10: How much do you think you will need? For what?

The $4.6 million appears adequate at this point. About two-thirds of that amount is for salaries and benefits and contract services. The remaining amount is for travel, computers, and other miscellaneous expenses.

Question 11: Will you report to the RTC Executive Director, the RTC Board of Directors, and/or the RTC Oversight Board?

As stipulated by FIRREA, the RTC Inspector General reports to the RTC Board of Directors and the Oversight Board.

Question 12: Will you have unrestricted discretion in determining what reviews to undertake?

Yes. Although the Inspector General reports to the two Boards, they do not control the work that my office chooses to do.

QUESTION SUBMITTED BY SENATOR GRASSLEY

Question: I would like your opinion about provisions we in the Senate included last year in S. 774, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) that were aimed at providing the RTC and the Justice Department the necessary tools to prosecute and recover funds from wrongdoers responsible for the thrift problems. Unfortunately, we lost these provisions because of House objections. One provision prohibits the use of our federal bankruptcy laws from protecting thrift directors and officers from paying for losses for which they are liable. A second provision would direct courts to give FDIC/RTC claims against thrift officers expedited treatment. A third would enable federal prosecutors to use the Racketeer Influenced and Corrupt Organizations Act (RICO) to pursue all crimes involving bank fraud. Now, RICO can be used to pursue only one of nine federal crimes under current law relating to bank fraud. Would passage of these provisions help you in your work?

While these provisions may have been beneficial to RTC/FDIC, we do not have any evidence at this time to suggest one way or the other that the current criminal sanctions and other federal laws are or are not sufficient. Also, these particular provisions do not directly affect the work that we will be doing. These provisions relate more to activities that occurred prior to the thrifts' failures. Our audit and investigative work is geared more toward events occurring from the point at which RTC takes control of the thrifts.

CONCLUSION OF HEARINGS

Senator **Mikulski**. This concludes the subcommittee's 1991 hearing on the President's budget. This subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 3:55 p.m., Wednesday, May 23, the hearings were concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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